



# District Mineral Foundation

## Concerns and Recommendations

# **District Mineral Foundation: Concerns and Recommendations**

**By**

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## Foreword

India's vast and varied mineral resources (coal, iron ore, crude steel, aluminium, limestone) are today a bone of contention. The liberalization of the Indian economy in 1991 transformed the political economy of mining by permitting private capital, domestic and transnational, to enter a sector that was entirely state-owned until then. The sector contributed annually some \$8 billion in foreign exchange to India's reserves, and \$850 million to the state treasury. But since most mining in the country is being done illegally (i.e. either without the required licenses or far exceeding the amount of extraction allowed at a site), profits from mining bypass the exchequer. They also fail to benefit the local communities, who have suffered serious social and ecological harm due to forced displacement, expropriation and destruction of livelihoods. Mining areas, home to the Adivasi or indigenous communities of the country, have experienced violent conflict and legal disputes along with protracted struggles for land and forest rights.

Mines, Minerals and People (mm&P) is a network of nationwide grassroots organizations, NGOs and social movements that has been at the forefront of the struggle for social and ecological justice for mining affected areas and communities. Samata and SETU, the two NGOs that have carried out this study of the workings of District Mineral Foundations (DMF), are leading members of mm&P with several decades of experience in not only working at the grassroots with communities adversely affected by mining but also in advocacy, large-scale political mobilization, legal empowerment, and policy change.

Given that mining operations are embedded in complex and varied local contexts, can companies and communities collaborate in projects of decentralized mining governance that would reduce deepening grievances and the risk of violence, which is detrimental to both sides? Have DMFs been able to effectively mediate the company-community relationship or have they reproduced and intensified patterns of regulatory and state capture? What role has and could the state play towards this end? These are some of the timely and highly relevant questions that the report "District Mineral Foundation: Concerns and Recommendations" addresses, based on intensive field study and systematic data collection at the local level in three mineral rich Indian states (Odisha, Karnataka and Goa) in 2018-2019. The fine-grained study points to the sub-optimal functioning of DMFs, controlled by a nexus of state administration and local politicians that has led to the marginalization of both communities and corporations, which have contributed funds from mining royalties. The detailed recommendations made by the report, which highlights the dynamics of sub-national politics as crucial to socially and ecologically sustainable mining governance, will prove to be productive in furthering policy dialogue and initiating changes at the national level, where there is an ongoing public debate on the government's new mineral policy. But it is to be hoped that this well-researched report, among the very first to examine the workings of DMFs in India, will also provide at the international level useful ideas and impetus for improved designs of decentralized and participatory mining governance that mitigates conflict by enabling fair benefit-sharing between corporations and communities that have a long-term interest in ecological justice over the generations.



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## Abbreviations

**CAG**- Comptroller and Auditor General

**CDA**- Community Development Agreement

**CSR**- Corporate Social Responsibility

**DMF**- District Mineral Foundation

**EC**- Executive Committee

**KMERC** - Karnataka Mining Environment Restoration Corporation

**KPSRL**- Knowledge Platform Security and Rule of Law

**MLA**- Member of Legislative Assembly

**mm&P**- mines, minerals and PEOPLE

**MMDR Act**- Mines and Minerals Development and Regulation Act

**MP**- Member of Parliament

**NGO**- Non-Governmental Organisation

**OAV**- Odisha Adarsha Vidyalaya

**OMBADC** - Odisha Mineral Bearing Area Development Corporation

**OMCL**- Odisha Mining Corporation Ltd

**PMKKKY**- Pradhan Mantri Khanij Kshetra Kalyan Yojana

**SPV**- Special Purpose Vehicle

## Executive Summary

The governance of company-local community relationships is central to understanding conflict risks at mines and their broader impacts on the rule of law. Extractives sites and sectors are potential drivers of conflict. The good governance of those sites and sectors are key to mitigating that conflict risk. Given the context-specificity of extractive industries, policymakers have recently promoted decentralized and multi-stakeholder governance of mine sites. They have emphasized direct dialogue between local stakeholders and companies to produce political and procedural norms that counter communities' political marginalization, and intervene locally to level the playing field between companies and communities, for example, by providing communities with legal advice.

Focusing on the implementation of District Mineral Foundations (DMFs) in India, this project shows how such interventions must be understood in a subnational political context. Based on interviews with dozens of local community members, politicians, and mining company actors, we find that key subnational actors structure local governance, often entrenching unequal power relations, and sometimes “recentralizing” governance in the hands of the state through the back door. In other words, decentralized governance of extractive industries may strengthen, rather than disrupt, existing local patterns of exploitation and marginalization as those governance arrangements are refracted through subnational elites.

Put simply, in the context of extractives, the stakes are so high that decentralized governance can be no substitute for the ongoing work of politically, socially and economically empowering marginalized and affected communities. We go on to show that decentralized governance could be a complement to that work; however, it can also exacerbate marginalization depending on the political conditions. We point to three main challenges that policymakers must tackle: identifying the affected community; instituting participatory frameworks for local governance and expenditure; and ensuring community development funds are properly disbursed.



## Context Of The Study And Relevance To KPSRL

The company-local community relationship has long been not only a fraught political issue but also a key determinant of a mine's success or failure, and with it, of the broader political economy of resource-based economies, whether the nineteenth-century American mid-west (Heald 2005, 3) or the 21st century Congolese hinterlands (Perks 2012). Local communities experience significant land pressures, social dislocation, environmental degradation and long-term damage, as a result of a mine. But a mine cannot operate either without reckoning with communities' land rights above and around subsoil resources. The politics of communities' relationship with one or more companies is thus intensely contested, and increasingly violent (Peluso and Watts 2001; Welker 2009) - and violence can cost a major mining project roughly US\$20 million per week (Davis and Franks 2014, 8).



Figure 1 Coal Mines In Odisha

Yet the governance of this relationship remains surprisingly unquestioned in the broader literature on the governance of mines in the global South. Spanning public policy, business studies, political science, geography, law, and anthropology, that

literature assumes - as a social, political, or empirical fact - a strong and clear divide between public and private resource governance, in which the central state generates public laws and local political forums (such as local councils) to govern some aspects of the company-community



relationship, while the company privately undertakes corporate social responsibility (CSR) and neo-patrimonial politics (for example, buying off local traditional leaders) to govern the rest (for a summary, see Bebbington, Humphreys Bebbington, et al. 2008). The politically and socially negotiated interaction between these public and private spheres – state regulation and CSR - around the mine is, in the literature, the underlying political engine of company-community governance arrangements and their effects (Ballard and Banks 2003; Billon 2008).

This assumption is rooted in legacies of colonial practices of resource extraction (with the metropole providing both public mining regulation and private companies: Hönke 2010) and resource nationalism in post-colonial states (with the state asserting sovereignty over sub-soil resources, and selling extraction rights to domestic or foreign capital: Kohl and Farthing 2012). Yet this assumption is increasingly unsustainable in the global South (and indeed some of the global North: O’Faircheallaigh 2013). Longitudinal qualitative studies in the early 2000s along the lifecycle of mines suggested that the governance of the company-community relationship demands new attention (Humphreys 2000). Mines and other extractive sites have emerged not only as costly (due to project delays caused by prolonged resistance by communities affected adversely by mining), but also as highly localized sites of violent conflict between communities and increasingly privatised security providers such as company security forces (Ferguson 2006). Companies have become legally and financially ever-more powerful vis-a-vis many resource-rich areas – as states failed to effectively govern mining areas, whether by circumstance (for example, internationally-driven structural adjustment and investment climate policies: Hilson and Potter 2005) or design (for example, states capturing royalties and rents for the mines while subcontracting their governance to the company: Bebbington, Hinojosa, et al. 2008). Both public and private modes of governance are no longer fully fit for purpose. At the same time, new legal frameworks that afford to mining-affected communities more rights than other local communities have implied that new forms of governance could be effective (Bebbington, Humphreys Bebbington, et al. 2008).

Thus, from around 2007 onwards scholars and development policymakers have developed a shared consensus that the governance of the company-community relationship should no longer be state-driven. It should be multi-stakeholder, participatory-democratic, and decentralized (Kemp and Owen 2013; World Bank 2012). Such governance frequently takes the form of a community

development agreement ("CDA" - or one of its many cognates, like an impact and benefit agreement, or district mineral foundation): some sort of quasi-public, quasi-private arrangement – ranging from a contract to a regulation - with varying degrees of legal force. It generally sets out the identities of the company and community, some mutual obligations (often including the redistribution of revenue from company to community in some fashion, including via the state), and recommends the development of a democratic and participatory multi-stakeholder body to oversee the evolving company-community relationship (O’Faircheallaigh 2013; Dupuy 2014; Desai 2013; Otto 2017). As an emergent "best practice" acclaimed by scholars, and policymakers alike (Söderholm and Svahn 2015; O’Faircheallaigh 2013; Gathii and Odumosu-Ayanu 2016, 85–90), CDAs are being implemented in dozens of resource-rich countries.

CDAs and laws mandating them are vague, even as they have rapidly proliferated globally. Recently they are required by law in Mongolia, Afghanistan, Liberia, and India; and are mandated in over 40 other countries (Dupuy 2014). Much is left to implementation, including the purpose of the CDA, and the form of the multi-stakeholder body. This is a policy choice, recognizing the need to adapt the CDA to local contexts and exigencies. Yet shifting the relevant site of governance from the central state to local implementation misses how key **subnational actors** – particularly administrative state bodies– structure local governance, often entrenching unequal power relations between company and community, producing local political spaces prone to elite capture, and sometimes even “recentralizing” the governance of this relationship through the back door (Ribot, Agrawal, and Larson 2006).

This raises a fundamental question: given that mines are embedded in complex and varied contexts, can companies and communities collaborate in projects of mutual governance, rather than compete in, or co-opt each other, in projects of asymmetric exploitation (Sosa and Keenan 2001), thus deepening grievances and the risk of violence? Underpinning this question is the political reality of decentralized mining governance – the *de jure* “responsibilization” (Shamir 2008) of companies and communities to increasingly govern themselves (for example under the rubric of requiring that the company obtain a “social license to operate” (Moffat and Zhang 2014), *de facto* limited by a local political context shaped by processes of state decentralization that they do not control – including the extent to which NGOs come to inhabit the political space left by the state’s retreat, and whether they effectively mediate the company-community relationship or reproduce and

intensify patterns of capture (Prno and Slocombe 2012) . Governance through a combination of policies of withdrawal and politics of responsabilization is a strategic hallmark of the “cunning state”. It serves states to evade responsibility for governing by “passing the power”, while retaining the ability to extract some amount of surplus resources or labour (Randeria 2003b, 2003a, 2007). This political dynamic is particularly problematic for local communities, most frequently constituting the weaker party in CDAs (Luning 2012; Blunt and Sainkhoo 2015). These subnational political realities determine whether agreements between companies and communities are marked by capture or meaningful cooperation, and whether instrumentalized power asymmetries prevail over good faith negotiation (Sabel 1993; Hamann 2003).

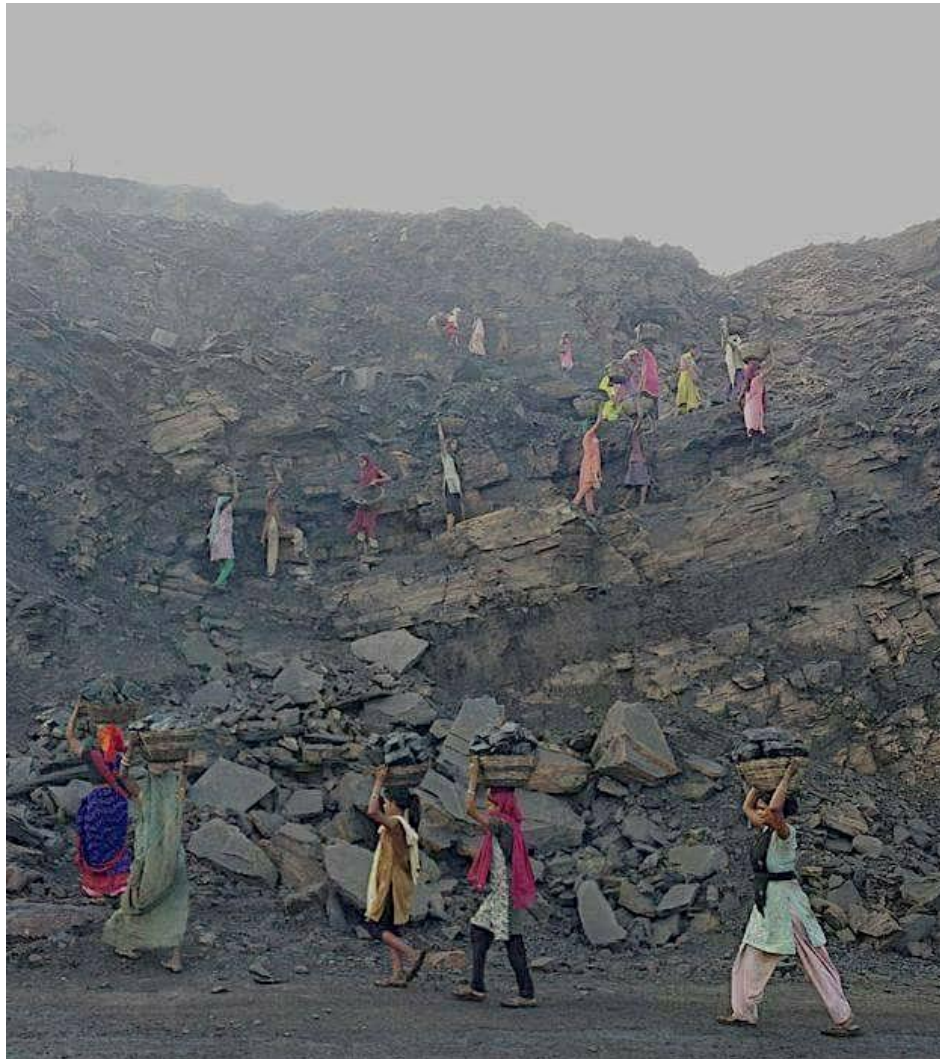


Figure 2: Asserting community command over its resources

## National Sectoral And Policy Context

India's mineral resources are vast. It ranks third in the world in production of coal, fourth for iron ore, fifth for crude steel, and eight for aluminium. The liberalization of the Indian economy in 1991 transformed the mining sector and its political economy (Adduci 2012). The sector was wholly state-owned and run prior to reform; subsequently domestic and transnational private capital flowed in, contributing approximately \$8 billion per year in foreign exchange to India's reserves, and \$850 million per year to the treasury. With investment in and profitability of the sector came far-reaching social and ecological harm, Maoist insurgencies, violent conflict, land struggles, illegal mining, and legal disputes (Jewitt 2008; Lahiri-Dutt 2007; Lahiri-Dutt 2004; Deb, Tiwari, and Lahiri-Dutt 2008). This liberalisation profoundly transformed Indian political economy (Hoelscher, Miklian, and Vadlamannati 2012), as rentier politics supplanted older forms of neo-patrimonial, caste, and kinship politics (Kale and Mazaheri 2014). Rentier politics has become entrenched at the subnational level in mining areas, as local officials – in particular powerful District Collectors – are increasingly tied to operational aspects of national and multinational mining companies, even as their access to central state resources waxes and wanes (Chandra 2015).

In India, CDAs are known as District Mineral Foundations (DMFs). Introduced in 2015, they were part of an Act of amendment to the Mines and Minerals (Development and Regulation) Act (MMDR) of 1957. The DMF is a non-profit statutory fund whose legal form is not fully prescribed. The MMDR amendment specified that DMFs should be established as a Trust (and indeed the Ministry of Mines has released a District Mineral Foundation Trust Deed), but it is not clear whether this is to be contained within a straightforward trust, a non-profit body, a corporation, a special purpose vehicle, or the like. A DMF is required to be instituted in every Indian district affected by mining-related operations, and should "work for the interest and benefit of persons, and areas affected by mining-related operations". For leases issued before 12-01-2015, companies should put 30% of the value of the royalty they pay to the state into the DMF; for those issued after 12-01-2015, the figure is 10%. The central government has in addition mandated the Pradhan Mantri Khanij Kshetra Kalyan Yojana (Prime Minister's Mineral Sector Welfare Scheme or PMKKKY) in September 2015, which is now linked to the DMF. PMKKKY, which is seen as a framework for implementing a local DMF development plan, is to be implemented through the



funds accruing to the DMF. PMKKKY is thus entirely funded by the DMFs in each district and the governance of it is according to the guidelines issued by the Ministry of Mines through an order (detailed in the annex). However, the governance of the PMKKKY, and the relationship of that governance to the DMF, is unclear.

According to relevant law and regulations, at least 60% of PMKKKY funds ought to be utilized for high priority areas for mining-affected communities, like: (i) drinking water supply; (ii) environmental preservation and pollution control measures; (iii) health care (iv) education; (v) welfare of women and children; (vi) welfare of aged and disabled people; (vii) skills development; and (viii) sanitation. The rest of the funds can then be utilized for *inter alia*: (i) physical infrastructure; (ii) irrigation; (iii) energy and watershed development; and (iv) any other measures for enhancing environmental quality in mining districts. Other than this, the law specifies little of the form and content of the DMF and PMKKKY, which are left to the rules to be laid down by various state governments in a decentralized manner. (The relevant provisions are found in an annex at the end of this document.)



Figure 4: DMF Contribution by OCL



Figure 5: Depletion of ground water due to mining in Goa led to water scarcity in the villages forcing them to rely on water tankers.

It is thus clear that the success and failure of DMFs and the PMKKKY will depend on local political conditions to a greater extent than on formal legal processes such as the use of rights litigation that has otherwise characterised the fraught relationship between companies and communities, whose fundamental rights they violate in India. We detail below how the fuzzy boundaries between the governance of the PMKKKY and the DMF cause enormous confusion on the ground. To the extent that this confusion occurs in an environment of contentious subnational politics, the DMF, which should enable participatory decentralized governance to improve community-corporate relations, is in effect turned into a state or local government fund that sidelines not only the corporation but also marginalizes the affected mining community. We found that the DMF has been treated by the state as a means for additional funds for whatever government departmental schemes the local politicians and local administration deem necessary. At the same time, local political conditions which are particularly volatile in mining affected areas. DMF



money has increased the stakes of local political power at the district level in mining areas. Indeed, as we show below, DMF money is often spent based on local political and bureaucratic will. In our research, we noted instances in Chhattisgarh and other parts of the country in which DMF money was used for election campaigning and to shore up vote banks.

We found that the DMF and PMKKKY have thus come to be seen by companies and communities as also another government run scheme ; the fact that companies contribute largely towards funding its budget from mining royalties deposited in DMF is obfuscated. The DMF and PMKKKY have thus suffered the same fate as the many other such schemes: top-down and poor implementation in the absence of consultation with those affected about their priorities, intransparent use of funds as well as large amounts of unspent funds, and no means to mitigate these shortcomings in the absence of grievance redressal mechanisms except protracted court cases to hold state administration accountable



Figure 6: little else except such billboards is visible of company efforts to clean up after abandoning mining sites in north Goa

According to the data released by the Ministry of Mines, as of 2018, 21 states have constituted DMFs in mining affected districts. Approximately Rs. 23,606 crores (around USD 3.4 billion)



have been collected for DMFs (as on November 2018). About 46% of these funds are from major mineral licences, 44% from coal and lignite mining, and the remaining 10% from minor minerals. According to official reports, of the total amount collected, only 24% has been committed for various development projects. Thus, surprisingly, vast sums of DMF funds seem to be lying unutilised with the state exchequer or may have been diverted for other purposes. We can only speculate on the reasons for this in the absence of documentation or research. What seems clear is that communities – and their local political representatives - are by and large ignorant of the DMF and its aims. Thus, there is little pressure from below for its adequate utilization. Moreover, what was also evident was that once companies have paid into the DMF they neither have a significant say in the management of DMF nor an interest in the proper disbursement of these funds. One reason for their disinterest could be that DMF funds are utilized for governmental schemes including PMKKKY and departmental projects. Thus, unlike CSR funds for which the company can claim credit, DMF funds become disassociated from the companies contributing to them. Moreover, there has been no outcome measurement of DMF funding, i.e. it is unclear how much and on what the allocated money has been spent.

Another aspect of mining royalties related to DMF that came to light during our research is that according to the Ministry of Mines, more than 96,000 cases of illegal mining for major and minor minerals were reported in various states in 2016-17 alone. This accounts for more than 90% of total mining operations carried out in 2016-17. Funds collected under the DMF so far are based on declared revenues from legal mining only, meaning those communities impacted by mining may not meet the DMF's tests for "affected" communities. The extent of illegal mining needs to be given serious thought as it is causing considerable loss to the public exchequer as well as environmental degradation because of the depletion of natural resources without any benefit to the local community.

All the above begs many questions. It will be important to understand how background subnational political conditions have shaped DMF implementation:

- How the DMF has been formalized, through what (participatory) mechanisms, and with what subsequent participation enshrined in that form;
- How the PMKKKY has been developed and implemented, including the (participatory) mechanisms through which viable projects and affected communities have been identified;

- What has actually been spent on what (and the transparency and accountability around that spending), what unspent funds have been captured and by whom, as well as the underlying political causes for the remarkable volume of unspent funds.



Figure 7: women selling products made from minor forest produce at the local haats

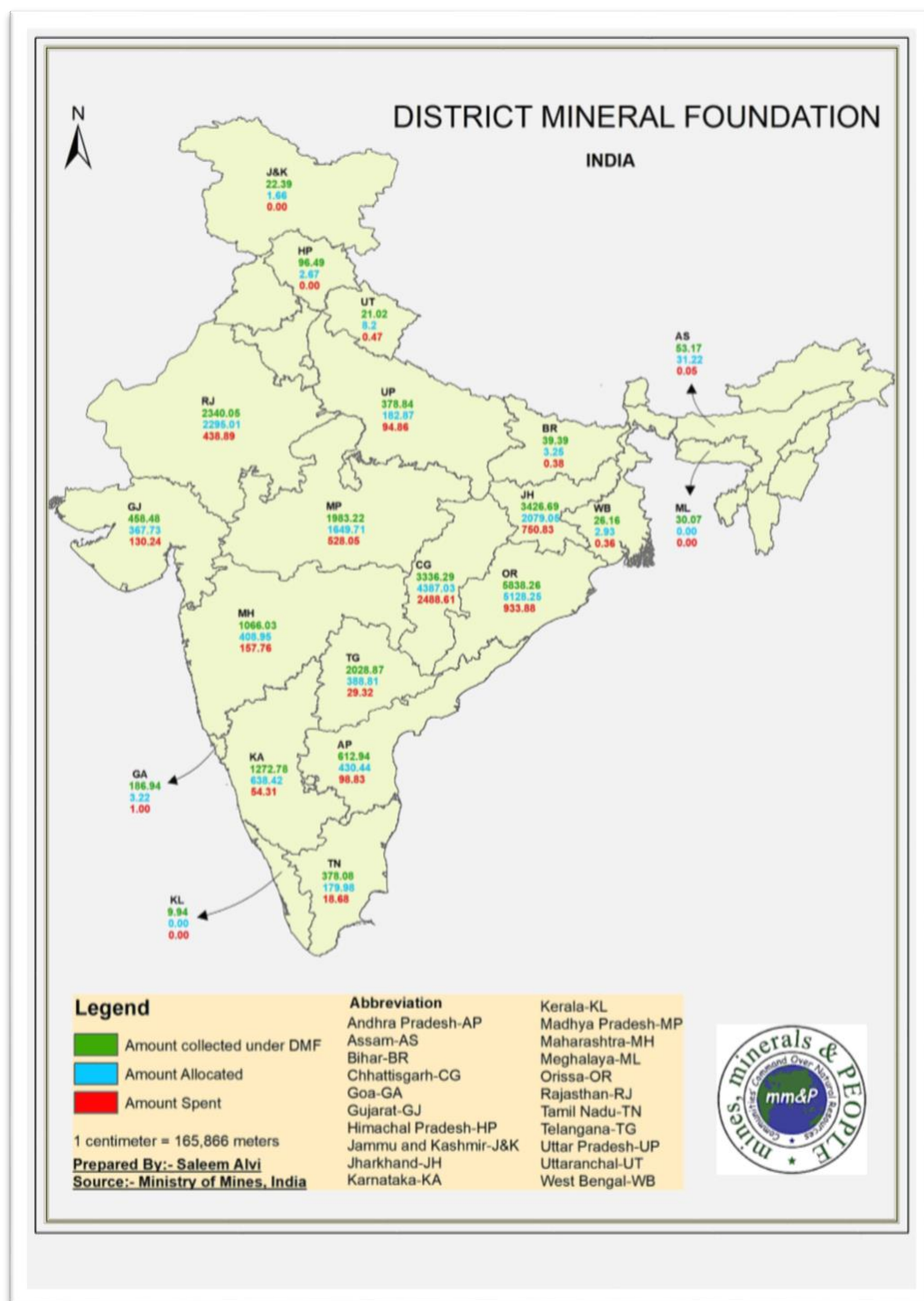


Figure 8: Map Representing DMF Collection And Expenditure In Each State



## Study Design and Method

This study sought to provide some preliminary answers to these questions, to provide insights for policymakers facing similar challenges (whether specifically in the mining sector, or around issues of decentralized governance of company-community relations in a range of sectors), to offer direct policy input into the question of mining governance in India (the subject of the second policy paper



Figure 9: Project inception meeting with the Research Team in Delhi

research involved collection of both primary and secondary data. Secondary data included relevant laws, court case judgments, DMF documentation and reports, media reports and existing reports by researchers and NGOs on DMFs. This was followed by structured and semi-structured interviews with actors ranging from National Commissions (including the National Commission for Scheduled Tribes), District Collectorates, members of the provincial Legislative Assemblies

emerging from this research), and to lay the basis for further scholarly study of DMFs and participatory social spending mechanisms in general.

The study focused on initial experiences with DMF implementation.

The **research methodology** used for the study was multi-sited and qualitative. The

(MLAs), local politicians and bureaucrats of the concerned districts, Members of Parliament (MPs), line department offices, panchayat (village council) offices, civil society organizations and members of the affected communities. A list of interviews is contained in an annex at the end of this document.

On the basis of intensity of mining, the presence of DMFs, existing access, and the ability to conduct robust research in a speedy fashion, the team chose three states to focus on: Karnataka, Goa and Odisha.

In **Karnataka**, with a century-old history of mining, the team chose Bellary district as the research site. Bellary district has approximately 148 mines covering 10,598 hectares of land. The Indian Bureau of Mines in 2005 estimated that Bellary had a total iron-ore reserve of around 1148 million tonnes. Bellary thus became a hotspot of mining after the declaration of the 1993 National Mineral Policy. Mining in the district has had major negative impacts on the local environment, on forest cover, on agriculture, as well as on air and water pollution. 98 of the 148 mines operating in Bellary are in forest areas, and there has been a lack of adequate rehabilitation of abandoned mines. Between 2005 and 2011, mining companies extracted 1,791,766 tonnes of iron ore (much of it without legal permission), worth Rs. 163.28 crore, without necessary environmental clearances. Of the 73 companies in Karnataka checked in a 2011 audit by the Comptroller and Auditor General (CAG) of India, 20 were mining without permission from the Karnataka State Pollution Control Board.

As a result of such impacts, the Supreme Court ruled to ban all mining in Bellary in 2014. Following the Supreme Court decision, the Karnataka Government formed a Special Purpose Vehicle called the Karnataka Mining Environment Restoration Corporation (KMERC) in 2014. It began with initial capital of Rs 3,500 crores to benefit the people and environment affected by mining in three districts — Bellary, Tumkur and Chitradurga. However, studies and testimonies of people in mining-affected areas have revealed discontent with the levels of KMERC spending, as well as how and on what the funds have been spent. It is in this existing institutional and political context that the DMF was established. Bellary district has collected approximately Rs 8000 lakhs for the DMF, a large part of which remains unspent according to our interviewees in the field.



Figure 10: mining trucks lying idle post-mining ban in Karnataka

In **Odisha**, the team chose Sundargarh and Keonjhar districts for our study. Odisha has rich mineral resources, including 28% of India's total iron ore deposits, 24% of its coal, 59% of its bauxite, and 98% of its chromite. Large scale mining in Sundargarh and Keonjhar has led to major social and environmental impacts. Indeed, in Keonjhar, the most-mined district in the state, 62% of the population lives below poverty line. In turn, there has been an at-times violent decade-long agitation by Adivasi (indigenous) communities against iron ore mining in Khandadar hills (which span Sundargarh and Keonjhar), including by the Odisha Mining Corporation Ltd (OMCL), which entered the area in 2016. To mitigate the impacts of mining, the Odisha Government initiated a Special Purpose Vehicle (SPV) called the Odisha Mineral Bearing Area Development Corporation (OMBADC) with an initial capital of Rs. 818 Crores – which has now increased to over Rs. 20,000 crores. However, the work by the SPV is still on an *ad-hoc* basis and lacks transparency and accountability. In this context, the state established the DMF, which has collected Rs. 2,341 crores from mining companies in Keonjhar and Rs. 1,125 crores from Sundargarh, which too remains to a large extent unspent.





Figure 11: Huge heaps of overburden from the mines making the entire area unfit for agriculture

In **Goa**, the team chose North Goa and South Goa districts for study. Goa was prone to extensive legal and illegal iron ore mining in the period from 1993 to 2011 when the international boom in iron ore was at its peak. This led to serious environmental, social, economic and political impacts on mining-affected communities. A government commission established in 2010 to study mining in Goa (the Shah Commission) found significant violations of measures mandated in law to protect affected communities, including the Forest Conservation Act 1980, National Forest Policy 1988, Wildlife Act 1972, Water (Prevention and Control of Pollution) Act 1974, Air Act 1981, Environment Protection Act 1986 and Biodiversity Act 2002. The state government was thus forced in 2012 to issue a temporary suspension order affecting all iron ore mining activity in the state in 2012. The DMF was operationalized in the context of the suspension, so the total DMF funds in Goa stand at only Rs. 186 crores. The Government of Goa is also pushing for revival of mining activities in Goa.





Figure 12: children protesting against mining in Goa



Figure 13: idle trucks in front of north Goa homes following mining ban

## Findings

The DMF legal and regulatory framework contains a lot of vague language and ambiguity, and leaves much to implementation at the state and local levels. This decentralization is a mixed blessing, allowing the DMF to be tuned to the specific circumstances of local mines and their impacts. However, the shift of power to the local levels also leads to problematic results, e.g. turning the DMF into a vehicle for local politics and further disempowering the affected communities. For example, our research showed that though the elected village headman, or Sarpanch, is a member of the DMF committee, community members expressed dissatisfaction with the functioning of DMF committees. For the Sarpanch was most often seen as not representing the interests of the community - and especially its most vulnerable members - but as representing the interests of powerful local castes and coalitions whose support he needs for his election to office. Similar dissatisfaction was expressed by community members regarding district collectors, line ministries, MLAs, MPs and others, who too were seen to act in either own interests or in the interests of powerful local politicians, thus depriving mining affected communities of a voice in the governance of DMF and utilization of its monies.



Figure 14: Gram Sabha



This sentiment extended beyond the issue of representation and into the concrete expenditure undertaken under DMF. In some areas of Sundargarh district in Odisha we were told that DMF funds were being used by local politicians for election expenses. And these politicians prevail upon local bureaucrats to disburse funds to mining contractors with close ties to politicians and those who can help them mobilize votes.

We thus found that the DMF has, to an important degree, been captured by local political elites, thereby exacerbating existing power asymmetries. This dynamic can be seen in Odisha, where the nexus between local politicians and bureaucrats seems to have led to a diversion of DMF funds for the Biju Pucca Ghar Yojana - a flagship housing scheme for the rural poor under the Government of Odisha, which may include some households in mining affected communities but by no means caters exclusively to these.

Research revealed that the ambiguities built into DMF rules affected its implementation mainly in three domains:

- Identification of the affected area and affected community
- Governance and expenditure
- Amount and mode of disbursement of funds

We take each of these in turn.



Figure 15: Research Meeting in Goa

## **Identifying the affected community**

Ambiguities in the definition of affected areas and communities has resulted in uncertainty over the exact beneficiaries of DMF. There is considerable confusion on the ground regarding which areas and communities are to count as “directly affected” as these terms are not precisely defined in the rules. Moreover, many communities are indirectly affected by mining (e.g. landless labour that has lost their livelihood as a result of land acquisition for mining, or harm caused to their agriculture crops due to air and water pollution due to mining). Those indirectly affected have not been recognized as eligible for the benefits of DMF in most of the districts. In Goa, for example, conflicts between the mining affected community, which is much larger than the community directly dependent on mining, has intensified. The community dependent on mining consisted, on the one hand, of mostly of migrant workers from the neighbouring states of Maharashtra, Karnataka and Gujarat, and on the other hand, of local contractors, truck owners etc. whose commercial interests were adversely affected by the ban on mining . After the ban on mining operations in Goa, the migrant labourers were left without employment or compensation, and the truck operators were left with large bank loans to repay but no means to do so. However, neither group falls under the purview of DMF as they are not defined as part of the mining affected community. Furthermore, the interests of these mining-affected and mining-dependent communities are diametrically opposed: those dependent on mining for employment or business are pressurising the government to restart mining operations in Goa, while those defined as mining affected, who have lost their lands to mining, whose agriculture has suffered due to water and air pollution and whose health has deteriorated due to the pollution are largely in favour of continuing the total ban on mining (noting that some individuals might straddle the two groups, such as truck owners who also have agricultural land in mining-affected areas).

States have failed to come up with definitions of these key terms and criteria to identify them. For example, in the case of a public hearing regarding any infrastructure, mining, dam, power project in India, the affected community is usually defined as those living within 25 kms from the project location. However, when identifying the beneficiaries of DMF, we found that some district collectors, who administer DMFs, were happy to expand this radius up to 200 kms to accommodate the wishes of local politicians. This leaves enormous discretion in the hands of the district collector

and local politicians, which is liable to be misused for political purposes. For example, in Odisha's Sundargarh district the Municipality of Rourkela is also included in the mining-affected area, even though the nearest mining area of Bolani is 150 km away from Rourkela city.

As a result, political networks and contests between local power brokers play a role in defining beneficiaries. In some cases, the district collectorate randomly defines some communities as "affected". In other cases, the absence of precise rules means that local MLAs and MPs are influencing decisions regarding which areas should be considered directly affected areas. A process of identification susceptible to local politics cannot be sustainable, especially as relationships between local power-brokers might be volatile and prone to violence.

## Governance and Expenditure



Figure 16: untreated water from the mines entering the rivers

How exactly can the DMF bind subnational politicians and companies to act in the benefit of affected communities? We turn first to the legal form of the DMF, which ought to provide some rules and guidance. Indeed, the DMF is supposed to be registered as some form of trust or foundation. Yet we repeatedly observed that DMFs have often not been registered, whatever the form they should take. Moreover, each state has a different procedure to establish the DMF - there



is no uniform approach. Karnataka rules specify that DMF needs to be registered under Karnataka Societies Registration Act, 1960. Goa and Odisha have no rules specifying the registration of DMF trust.

In terms of DMF governance, the DMF is supposed to be governed by a DMF committee, which ought to play a role in generating the PMKKKY. We found that DMF Trust offices are not set up in many of the research districts. In Keonjhar district in Odisha we observed that DMF offices were established far from mining affected areas, limiting local community access. In fact, we found that the DMF often operated through district collectorate offices (placing a lot of power in the hands of the district collector). For example, the Goa DMF rules (2019) state that if there is a lack of quorum then the meeting can be postponed by an hour – and then it can be continued by the district collector even if the required quorum is not met. Rules such as these are hardly conducive to establish the trust of local communities or ensure their participation. In fact, they seem to be designed on the contrary to facilitate their exclusion and to concentrate power and control of DMF funds in the hands of the all powerful district collector.



Figure 17: polluted river due to waste from mining sites

DMF committees have been established in some of the research districts. However, instead of opening avenues to participatory governance and including representatives of the *gram sabha*, the lowest village level local self-government body (like a plenary village council), these committees are dominated by representatives of so-called “line departments” of the state government for e.g. the Deputy Director of Health, Education and Forest Department are part of the Committee, similarly in Karnataka the District Health Officer, District Education Officer etc. are part of the committee, each of whom has an interest in ensuring that DMF funds are spent for activities of their own departments as this would free up departmental funds for other

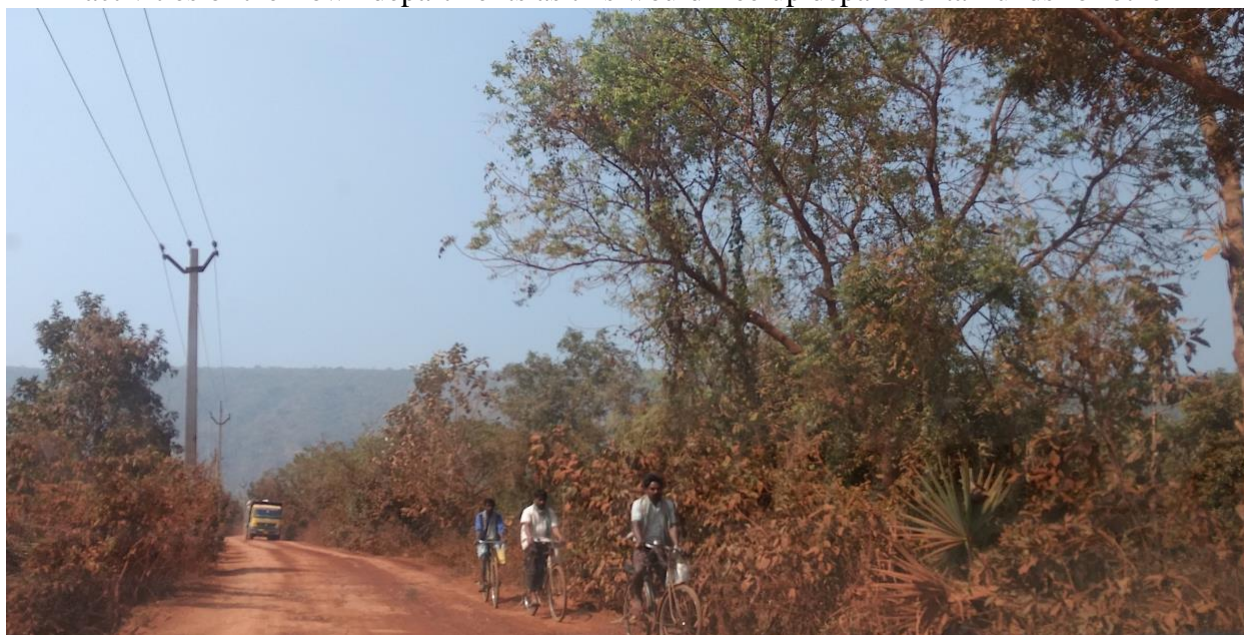


Figure 18: Villagers prone to accidents as mining trucks pass through the villages

purposes. A reply by the district collectorate Sundargarh to a Right to Information query by a local activist we interviewed revealed that most of the projects sanctioned under the rubric of Education from the DMF are for Odisha Adarsha Vidyalaya (OAV) under the Department of Schools and Mass Education, Government of Odisha. These DMF funds were used for infrastructure such as building hostels for students, mess and kitchen, playgrounds, toilets etc.

As the asymmetrical composition of the DMF committee in the 3 states we studied shows, the majority of members are bureaucrats along with a few local politicians and elected members of local self-government bodies. Representation of the affected communities and civil society is not only kept minimal but even these are to be nominated by the government instead of being chosen



by the people themselves. Representatives of the companies seem to be conspicuous by their complete absence.

**Table 1: Composition of DMF Committees in the three states studied**

<b>Goa</b>	<b>Karnataka</b>	<b>Odisha</b>
<b>Collector/district magistrate</b>	District in-charge Minister	Revenue Divisional Commissioner or Collector, as may be decided by the Government
<b>Representatives from MLA from the district preferably among the directly affected areas shall be recommended by mines ministry not exceeding three</b>	Member of Parliament representing the District	Additional District Magistrate and District Level Officers of Steel and Mines, Forest and Environment, Rural Development, Works, ST and SC Development and Health and Family Welfare Departments and of such other Departments as the Government may specify
<b>Deputy Director of Mines</b>	Member of Legislative Assembly representing the part or whole of the District	Each Member of the Lok Sabha and each Member of the Odisha Legislative Assembly in whose constituency any major mineral concession is located
<b>The Executive/Assistant Engineer, Public Works Department</b>	Member of Legislative Council registered as voter in the District	A member of the Zilla Parishad(District Council) of the District where the area in which any major mineral concession are given is located, to be

		nominated by the Government
<b>The Deputy Director, Directorate of Health</b>	The President, Zilla Panchayat (District Council) of the District	Not exceeding three members of Panchayati Raj Institutions or Urban Local Bodies from the area in which any major mineral concession is located, to be nominated by the Government as members
<b>The Deputy Director, Directorate of Education or any Officer not below the rank of Assistant Director/Deputy Director nominated by the Department.</b>	The Deputy Commissioner of the District	
<b>The Assistant Director, Directorate of Social Welfare or any Officer not below the rank of Assistant Director/Deputy Director nominated by the Department.</b>	The Chief Executive Officer of the Zilla Panchayat (District Council) of the District	
<b>The Deputy Director, Directorate of Women &amp; Child Development or any Officer not below the rank of Assistant Director/Deputy Director nominated by the Department.</b>	The [Deputy] Conservator of Forest (Territorial), Forest Department	
<b>The Deputy Director, Directorate of Agriculture</b>	The District Health Officer of the District	
<b>The Executive/Assistant Engineer, Water Resources</b>	The Executive Engineer of the Public Works and Inland Water Transport Department of the District.	
<b>The Executive/Assistant Engineer, Department of Electricity</b>	The Executive Engineer of Zilla Panchayat (District Council) of the District, In-charge of the Rural Water Supply in the District	

<b>The Representative of Finance Department (Budget), not Ex Officio below the rank of Under Secretary.</b>	The Joint Director, District Industries Centre, Commerce and Industries Department	
<b>The Director/Deputy Director, Directorate of Panchayats</b>	The Environmental Officer, Nominated by the Karnataka State Pollution Control Board	
<b>Representatives of the Mineral Foundation of Goa (or any other Non-Government Organizations/Civil Society which have worked at the ground level in mines affected areas for providing relief including undertaking activities under Corporate Social Responsibility) to be nominated by the State Government not exceeding two.</b>	The Deputy Director of Public Instruction, Education Department in charge of the District	
<b>Two Representatives shall be recommended by Mines Minister and to be finally nominated by the State Government amongst the mineral concession holder/industry representative/Goa Mineral Ore Exporters Association</b>	Two Representatives from industries using minerals in the concerned district, to be nominated by the State Government by notification.	
<b>Any other Officials/person nominated by the State Government</b>	Two Representatives from the holders of mineral or minor mineral concession belonging to the concerned district, to be nominated by the State Government by notification.	
	One Representative from a prominent Non-Governmental Organization or any Institution working on Environmental issues in the concerned district to be nominated by the State Government by notification.	
	Three representatives of the Community of affected persons from affected areas nominated by the State Government by notification.	

	The Deputy Director/Senior Geologist of Mines and Geology Department of the respective district.	
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*Source: Goa District Mineral Foundation (Trust) Rules, 2018, Government of Goa. District Mineral Foundation Rules, 2016, Government of Karnataka. The Odisha District Mineral Foundation Rules, 2015, Government of Odisha.*

This maldistribution of participation in DMF governance has important effects on expenditure. In Odisha, for example, instead of involving the local community in project planning, the local government has recently started to recruit specialist officers to manage the DMF funds, such as a health officer and an education officer. The affected Adivasi (indigenous) communities complained to us that DMF projects are planned by these officers without consultation nor a needs assessment. The officers we spoke to did not feel the need to consult Adivasi community members as they firmly believed that only educated and literate people should be consulted allowed to participate in DMF planning. The effects of this mode of governance are clear: In Odisha, for example, despite the fact that the most of the mining affected areas in Keonjhar and Sundargarh are rural, DMF allocations so far have been the highest in urban areas least affected by extractive activities



Figure 19: women gathered for community mapping activity





Figure 20: illegal mining in Goa despite ban on mining

Along with the governance structure of the DMF, our interviews in all three states showed widespread confusion between the DMF and PMKKKY amongst community members, NGOs, district administration and local MLAs. This confusion was both caused by subnational political patterns, and produced openings for subnational politics to shape DMF expenditure. For example, the rules instituting the DMF made provisions for funding and general terms of expenditure. The rules instituting the PMKKKY made provisions for expenditure and governance of both the DMF and PMKKKY (including some suggestions regarding procedures for audit of DMF funds and DMF administration, as well as high-priority areas for the expenditure of DMF funds). However, our research has shown in all three states that state DMF rules do not comply with PMKKKY guidelines. In Goa, for instance, activists have filed a petition in court pointing out that Goa DMF rules are contrary to both Section 9(B) of the MMDR Act 2015, as well as many aspects of PMKKKY (the matter is currently *sub judice*).



Figure 21: agitated women attend public hearing relating to mining in their region

It is also unclear in some regions whether DMF funds in their entirety need to be spent under PMKKKY or whether they can be used for other projects too. The Karnataka DMF rules specify that the entire DMF amount needs to be spent under PMKKKY except for up to 5% for the administration of the DMF itself. In the case of Odisha the rules do not specify what percentage of funds need to be utilized under PMKKKY. Ambiguity about procedures leads to poor governance at the district level. We learnt in Sundargarh district that projects approved for funding by one district collector were arbitrarily cancelled by the next district collector as they did not comply with PMKKKY guidelines. This constant confusion has negative consequences: it makes for lack of transparency and furthers arbitrariness in the handling of funds and schemes, but it also means that mining companies have little interest in DMF implementation as they do not get due credit for contributing DMF funds: since PMKKKY complements existing state policies and schemes, DMF money is often disbursed to supplement existing government schemes. All this also corrodes community confidence in the DMF.

Thus, governance of the DMF and PMKKKY is often indistinguishable, and is largely in the hands of civil servants and local power-brokers to the detriment of community participation. This may provide a mechanism through which local elites might initiate disbursement of funds for their own

benefit – for example, around 5% of DMF funds can be used for undefined “administrative purposes” per the DMF rules. Furthermore, the DMF fails to incorporate a grievance mechanism. As a result, the community can only use the High Court, e.g., to hold the state administration accountable. In the absence of either party or a mechanism for grievance redressal the DMF is unlikely to function as an instrument of democratic control and participatory resource governance.

## Under-Utilization of Funds and Modes of Disbursal

The DMF has collected a vast amount of funds, which could be augmented even further if the currently-illegal mining were to be brought under its ambit. Equally of concern is the very low utilisation rates of DMF funds which constitute a puzzle:

**Table 2: DMF collection and expenditure by state**

\*Amount in Crores

	Goa	Karnataka	Odisha
Total amount Collected under DMF	186.94	1272.78	5838.26
Total amount spent so far	1	54.31	933.88
Total number of projects sanctioned	2	1507	9829

Source: Ministry of Mines. 2019. "Transform Mining", Government of India, p. 2

**Table 3: DMF collection and expenditure by research district**

\*Amount in Crores

Research Districts	Amount Collected	Amount Spent
Keonjhar	2341.82	277.10
Sundargarh	1125.26	226.90
Bellary	784.12	29.14
North Goa	95.77	0.50
South Goa	91.17	0.50

Source: Ministry of Mines. 2019. "Transform Mining", Government of India. p. 20, 24, 29



To our great surprise, we found that DMF funds have not yet began to be spent in Goa; only 4% of DMF funds have been utilized in Karnataka, and only 12% in Keonjhar district of Odisha. Funds have been spent on projects sanctioned at the will of the district collector and the “line departments” for various central and state government sponsored schemes. The related PMKKKY scheme does not seem to be developed, and in neither case have affected communities been consulted. This has led to disappointment on the part of the communities, who feel cheated of the funds meant for purposes to be defined in consultation with them. Interviewees told us that they believed that DMF funds were only for the benefit of contractors, government officials and local power brokers but not for the affected community. The high volume of unspent funds constitutes a puzzle that needs thorough future investigation. Based on our interviews we would speculate that some of the reasons for under-utilization may be: difficulty of identifying beneficiaries; risk of misuse of funds given the cumbersome rules; risk of raising expectations; waiting for elections to spend the funds for political gain; low incentives to undertake the laborious process of identifying beneficiary areas and households etc. Under these circumstances, it may appear to be politically expedient to leave the funds unspent.

Finally, a serious issue that our research revealed was that projects planned under DMF often show no relationship to mining affected areas or communities. Most of the DMF funds collected in Sundargarh have been allocated for primarily transport infrastructure projects in urban areas which are far from the mining affected areas. In Koida block, among the areas most severely affected by mining in Sundargarh, more than 60% of DMF funds have been sanctioned for big infrastructure projects rather than to alleviate health and livelihood issues due to mining. Rs 31.8 crores have been sanctioned for piped drinking water supply in Sundargarh town - which is minimally affected by mining - while the worst mining affected block Kutra has been allocated only 10 Lakhs for piped drinking water.

## Lessons For Policymakers

### Mining

- Current governance conflicts in the mining sector must be understood against the **backdrop of longstanding and shifting local political alliances**, contestation and, grievances– including the ability to intimidate and gain control by deploying violence.
- **Conflicts have been exacerbated**, instead of being reduced, as a result of inadequate implementation of the DMF. In view of the highly negative economic, social, and environmental impact of rapid and growing extractive activity, and given the availability of the funds to mitigate these effects at least partially and provide benefits to the affected communities, the experience with DMF in India has been disappointing. Some conflicts seem to have intensified in mining affected areas owing to the inflow of DMF funds. Most DMF-sanctioned funds infrastructure projects in Keonjhar were to be allotted to influential contractors from the neighbouring states of Andhra Pradesh, Maharashtra and Madhya Pradesh, who do not belong to local tribal communities affected adversely by mining activities.
- **Local elites and the local state machinery/bureaucracy have gained greater voice and power** in spending the DMF money for their own benefit in all the three states studied. Due to the skewed composition of the DMF committee local politicians and powerful civil servants are able to gain influence and control of DMF funds.
- This local political control is exacerbated owing to the **lack of transparency** regarding the collection, management, and expenditure of DMF funds – both in terms of audits and publicly-available information. In the absence of such measures, local awareness of, and trust in the DMF, as a conflict-mitigation mechanism is weakened.

### Governance

- **Decentralization of governance** in any sector must take local political economies into account. This could well involve upstream political economy analysis prior to developing legal and policy frameworks. But it should also involve effective decentralization in *planning*, not just in fund gathering and disbursal. The PMKKKY and its projects in particular should be developed in a consultative and participatory fashion, and this

principle should be embedded in the DMF trust rules. This was most explicitly pointed out to us by Adivasi groups affected by mining. There is an urgent need to train government officials about the aims and functioning of decentralized governance structures such as the DMF if its very purpose is not to be defeated by the negative attitude towards the involvement of beneficiaries on the part of the very officials entrusted with its implementation.

- **Robust process rules** including the registration of DMF trusts would help improve the implementation of decentralized governance – identifying the affected communities, producing a space for ongoing collaborative governance. Rules for identification of the affected community and the affected areas should be clarified and adhered to. Moreover, the fuzzy boundaries between DMF and PMKKKY need to be addressed as they are an impediment in the implementation of DMF. The rules and procedures need to be clearly spelled out to ensure strong participatory fiduciary bodies to govern implementation.
- **Clear institutional roles and responsibilities** are required to be delineated together with agreed and robust linkages and communication between local government and local democratic institutions. Even state government officials seem to be confused about which funds are being used for specific projects - whether they should be taken from central budgets, state budgets, DMFs, SPVs, and so on. For more transparency and accountability the details of the various fund allocations should be made available at the panchayat level.
- **Enhancing local participation (e.g. through the role of the Gram Sabha).** If DMF planning is to be participatory, the involvement of the Gram Sabha should be made mandatory. Though DMF rules and PMKKKY guidelines specify the responsibility of Gram Sabha in identifying the beneficiaries and in project implementation – in particular to be consulted regarding the PMKKKY - these are not being adhered to. Members of the Gram Sabha must be given a seat in DMF Managing Committee.
- **Training for community vigilance and setting up social audit mechanisms.** Communities living in and around mining areas need to be given training and information in order for them to monitor DMF spending. The Ministry should amend the guidelines to prescribe social audit of various schemes/projects being implemented under the DMF funding that would involve community participation in mining affected areas. Central and State budgets with details of the funds available to the various so-called line departments



should be made available to the community in order to enable transparency and monitoring of implementation.

- **Grievance redress:** As the district administration is in charge of the DMF fund there is no local body that can act as a grievance redressal authority. There is need for an accessible redressal mechanism, which can hear community grievances regarding identification of beneficiaries, allocation of funds, implementation of projects and other related issues.



Figure 22: research team meeting with Ms. Anusuiya Uikey, Vice-Chairperson NCST

## Annex: List Of Interviews

Sr.no	Interviewee	Designation	State
1.	Anusuiya Uikey	Vice-Chairperson, NCST	National Level
2.	Mansukhbhai Vasava	Member of Parliament	Gujarat
3.	Arjun Lal Meena	Member of Parliament	Rajasthan
4.	Prabhubhai Vasava	Member of Parliament	Gujarat
5.	George Tirkey	MLA Bhirmitapur Constituency	Odisha
6.	Smitarani Pattnaik	Founder- Nari Suraksha Samaiti NGO	Odisha
7.	Manas Jena	Executive Director, Development Initiative NGO	Odisha
8.	Duskar Barik,	Executive Director  KIRDTI,Keonjhar and member of Citizen Forum,	Odisha
9.	Ramrai Mundaya	Chairperson Special  Tribal Development Council	Odisha
10.	Sushila Toppo	SarpanchKukudaGramPanchayat(GP)	Odisha
11.	Name not disclosed	Member District DMF Cell	Odisha
12.	Deme Oram	EC Member, mm&P	Odisha
13.	Bhagyalakshmi	Founder, Sakhi Trust, Hospete	Karnataka
14.	Mahaveer	Deputy Director, Mines and Geology, Hospet	Karnataka
15.	Ramesh Kumar	District Conservator of Forest, Bellary	Karnataka
16.	Uliyamma	Mine worker, Hospet	Karnataka

17.	Chandrashekhar	Senior Geologist, Bellary	Karnataka
18.	Chandni	Community leader, Sakhi Trust	Karnataka
19.	Maniah	ZillaParishad member, Bellary	Karnataka
20.	Devamma	Mine worker	Karnataka
21.	Lakshmi Devi	Women's coordinator, Sakhi Trust	Karnataka
22.	Galemma	Sakhi Trust	Karnataka
23.	Mallikarjun	YuwaDhawani Youth Group Member	Karnataka
24.	Kalidas	Member of RajyaRaitu Sangha	Karnataka
25.	Hullugaiah	Taluk Adyaksha, Siruguppa	Karnataka
26.	H. Sunil	Inchara Youth Group Member	Karnataka
27.	Yamunesh	Hospet	Karnataka
28.	Community members	Gunda Village, Hospet	Karnataka
29.	Shivkumar Malagi	EC Member, mm&P	Karnataka
30.	Aatma Gaonkar	Sarpanch, Honda Panchayat	Goa
31.	Sebastian Rodrigues	Anti-Mining Activist, North Goa	Goa
32.	Dr. Tariq Thomas	District Collector, South Goa	Goa
33.	Devidas Gaonkar	Local Journalist	Goa
34.	Durgadas Gaonkar	Ex. President of GAKUVED FEDERATION	Goa
35.	Manual Barreto	Deputy Director of Mines and Geology	Goa
36.	Francis Carvalho,	Community Leader, South Goa	Goa



37.	Hanumant Parab	Community Member, Sattari	Goa
38.	Motesh Antao	Resident of Colomba	Goa
39.	Tolyo Gaonkar	Sarpanch, CauremPirla, Quepem	Goa
40.	Anusaya Vantekar	Sonshi Village	Goa
41.	Mohini Gawade	Sonshi Village	Goa
42.	Shobhawati Gawade	Sonshi Village	Goa
43.	Mahesh Gawade,	Sonshi Village	Goa
44.	Vaman Gawade	Sonshi Village	Goa
45.	Devanand Gawade	Sonshi Village	Goa
46.	Levinson Martins	District Collector, North Goa	Goa
47.	Ravindra Velip	EC Member, mm&P	Goa
48.	Ashok Shrimali	Secretary General, mm&P	Gujarat
49.	Yusuf Beg	EC Member, mm&P	Madhya Pradesh
50.	Rajesh Tripathi	EC Member, mm&P	Chhattisgarh
51.	Mukesh Birua	EC Member, mm&P	Jharkhand
52.	Swaraj Das	EC Member, mm&P	West Bengal
53.	Bansilal Bhinjana	EC Member, mm&P	Rajasthan
54.	Claude Alvares	Activist and Scholar, Goa Foundation	Goa
55.	Rahul Basu	Member, Goa Foundation and The Goenchi Mati Movement	Goa

## **Annex: Legal Provisions**

### *Amendment Act*

9B. (1) In any district affected by mining related operations, the State Government shall, by notification, establish a trust, as a non-profit body, to be called the District Mineral Foundation.

(2) The object of the District Mineral Foundation shall be to work for the interest and benefit of persons, and areas affected by mining related operations in such manner as may be prescribed by the State Government.

(3) The composition and functions of the District Mineral Foundation shall be such as may be prescribed by the State Government.

(4) The State Government while making rules under sub-sections (2) and (3) shall be guided by the provisions contained in article 244 read with Fifth and Sixth Schedules to the Constitution relating to administration of the Scheduled Areas and Tribal Areas and the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

(5) The holder of a mining lease or a prospecting license-cum-mining lease granted on or after the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, shall, in addition to the royalty, pay to the District Mineral Foundation of the district in which the mining operations are carried on, an amount which is equivalent to such percentage of the royalty paid in terms of the Second Schedule, not exceeding one-third of such royalty, as may be prescribed by the Central Government.

(6) The holder of a mining lease granted before the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, shall, in addition to the royalty, pay to the District Mineral Foundation of the district in which the mining operations are carried on, an amount not exceeding the royalty paid in terms of the Second Schedule in such manner and subject to the categorization of the mining leases and the amounts payable by the various categories of lease holders, as may be prescribed by the Central Government.

### *Notification (I.F. No. 16/7/2015-M.VII) of 17 September 2015*

This notification sets the relevant DMF payment rates for leaseholders.

Order (No.16/7/2015-M.VI (Part))of 17 September 2015

This Order directs State Governments to incorporate the PMKKKY into the rules framed by them for the DMF and to implement the said scheme. It also sets out some parameters regarding the identification of affected areas and people to be covered under the PMKKKY:

1) Affected areas

a. Directly affected areas – where direct mining-related operations such as excavation, mining, blasting, beneficiation and waste disposal (overburdened dumps, tailing ponds, transport corridors etc.), etc. are located.

a) Villages and gram panchayats within which the mines are situated and are operational. Such mining areas may extend to neighboring village, block or district on even state.

b) An area within such radius from a mine or cluster of mines as may be specified by the State Government, irrespective of whether this falls within the district concerned or adjacent district.

c) Villages in which families displaced by mines have resettled/rehabilitated by the project authorities.

d) Villages that significantly depend on the mining areas for meeting their economic needs and have usufruct and traditional rights over the project areas, for instance, for grazing, collection of minor forest produce etc. should be considered as directly affected areas.

b. Indirectly affected areas –Those areas where local population is adversely affected on account of economic, social and environmental consequences due to mining-related operations. The major negative impacts of mining could be by way of deterioration of water, soil and air quality, reduction in stream flows and depletion of ground water, congestion and pollution due to mining operations, transportation of minerals, increased burden on existing infrastructure and resources.

c. The DMF shall prepare and maintain an updated list of such directly and indirectly affected areas by mining related operations.

2) Affected people

1. The following should include as directly affected persons:



- a) 'Affected family' as defined under Section 3 (c) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013
  - b) 'Displaced family' as defined under Section 3 (k) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013
  - c) Any other as appropriately identified by the concerned gram sabha.
2. Persons affected by mining should include people who have legal and occupational rights over the land being mined, and also those with usufruct and traditional rights
  3. Affected families should be identified, as far as possible, in consultation with local/elected representatives of gram sabha.
  4. The DMF shall prepare and maintain an updated list of such affected persons/local communities.

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