

**Suggestions for improving the Guidelines related to implementation of the PMKKKY
through the District Mineral Funds
Submitted to the Ministry of Mines, Government of India, by a group of civil society
organisations, affected communities and workers**

The District Mineral Foundations were set up as per the MMDR Act of 1957 under Section 9B which states that, *“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”*. The PMKKKY is a programme that is implemented using the special purpose District Mineral Funds through the institutional mechanism of the District Mineral Foundations/Trusts.

As stated in its objectives, the PMKKKY is to work for persons and areas affected by mining operations. It states that it is not for activities related to ‘polluter pays principle’ but to complement the ongoing schemes and programmes of the Central and State governments. This has brought a thin demarcation in responsibility sharing in righting the wrongs done by mining operations between the user agency, whether private corporate or government entity, and the responsibility of the state in its delivery of governance. As a result, the regulation to bring to account violations and mitigation of negative impacts from the mining companies/contractors has been poor while the DMF funds have been used for general purpose or minor welfare programmes under its priority areas, without making any effective interventions to affected persons or areas damaged by mine pollution or its ill-effects. Whereas a series of orders have been passed by the Ministry of Mines relating to guidelines for implementation of the PMKKKY, in the actual implementation of the DMF funds, we find several gaps and poor implementation of the PMKKKY. Therefore, our suggestions are as follows:

- 1. Non-Implementation of DMF and lack of information and transparency-Ministry’s Orders and guidelines should address this with explicit punitive actions:** Many districts are not utilizing the DMF funds or not reporting the utilization of these funds in the public domain. Hence it is difficult for affected communities and the public to understand the present planning and operationalization systems in the implementation of the DMF and whether the existing guidelines are being followed. The orders of the Ministry instruct for a five-year perspective plan to be undertaken by each district after conducting baseline surveys by reputed agencies/universities, based on which annual action plans are to be prepared in consultation with the concerned Gram Sabhas/panchayats. There is no public disclosure of these perspective plans or annual plans or reports in most mining affected districts. The order should include punitive actions on district authorities for non-compliance with these guidelines, non-implementation of the stipulated plans and reporting and non-disclosure of information to the public and affected communities. The Ministry should pass strict orders for compliance mechanisms on processes of due diligence for public disclosure of baseline assessment, mine management plans, EIA reports, conditions under which forest and environment clearances were obtained by the mining company, polluter pay actions taken and the details of the DMF projects implemented in each site, micro plans and annual plans and consent of Gram Sabhas as well as audit by Gram Sabhas wherever implemented. Public participation and affected communities’ participation in the implementation of the PMKKKY will not be effective in the absence of these documents

and detailed information. As majority of the districts fall in tribal areas, the guidelines should instruct for public information to be available in vernacular and tribal languages and in accessible platforms (physical and digital), for affected communities to participate or benefit.

2. **Definitions and explanations:** There are many gaps in the definitions of affected people and the manner in which priority areas have been defined or rolled out; there is also no clarity on the nature of interventions from the PMKKKY for affected areas and priority sectors. The guidelines should be more explicit on these.

Since the mining projects overlap in large measure with adivasi and Scheduled Areas, the need for specific comprehensive measures to address need to be included in the guidelines and these aspects will gain clarity when the definitions are articulated more specifically with respect to high priority areas, social impact assessment, gender impact assessment, directly and indirectly affected people and areas, categories of labour and workers. Based on these criteria, the funds under DMF will be aligned with and relevance to impacts of mining projects. The definitions should also spell out details of identification and modalities for fund utilisation with respect to illegal mines and informal mine workers, especially procedures for enumeration and identification of mine workers in illegal and informal mines.

3. **Identification of Mining Impacts and Affected Areas:** There is often no correlation between the losses and negative impacts of mining and the type of DMF projects implemented. They are often general (and often core activities and not complementary or supplementary) expenditures that should be implemented from the respective line departments (whether education, ICDS, drinking water, etc). Hence, the objective of these special purpose funds is being lost to miscellaneous/all purpose expenditures left to the ad hoc needs and discretion (whether political or administrative) of state and district authorities. Besides, in order that affected communities and the public (and also the DMF management committees) understand the difference between polluter payments by polluting mining companies, and the supplementary activities planned under the DMF, the guidelines should have more specific directives for better planning. In addition to the losses that mining companies are mandated to pay for, there are several spill-over negative impacts that require the state and governance mechanisms to respond to. For example, when communities are displaced/relocated for mining projects, there is neither convergence of different departments nor due diligence in ensuring that basic amenities, governance and development support are provided to the affected. The DMF funds should be allocated for dedicated district administration for speedy and just transition in affected or relocated sites where the losses are compensated and rehabilitated; restoring lands and forests, reinstating livelihoods that provide sustainable livelihoods (and not tokenistic), education support and shelter for children and persons with disabilities affected by mining, and such other supportive activities instead of constructing schools and anganwadis or distributing disability tools in general that are to be budgeted under the line departments for their core functions. These require long term planning for justice to those who sacrifice their lands and livelihoods for the stated larger economic gains of the nation, and the DMF five-year plans should include these measures. We often find that social sector budgets under health, education, and women welfare are being reduced and the district authorities are forced to dig into the DMF funds wherever they face shortages for social welfare programmes. The guidelines should clearly discourage this.

4. **Planning and Priority Areas:** The PMKKKY is not identifying or addressing the fundamental damages left by mining operations to either monitor companies to comply with regulations and pay for their pollution/damages nor does it provide for restoration and sustainable solutions within its framework. For example, drinking water which is a high priority area is addressed by superficial and ad hoc expenditures like water treatment plants or installation of handpumps, when the groundwater is depleted and contaminated due to mining. In most DMF implemented sites, it is found that these are not operational due to lack of water in the first place. Neither are the concerned ministries taking proper actions on companies nor is the PMKKKY providing solutions to the drinking water crisis brought about by irresponsible mining. This is leading to wastage of the DMF resources and lack of accountability from mining companies. Similarly, health, which is a high priority area, is addressed through general health, mostly through infrastructure and civil works of PHCs and district hospitals. The occupational health and safety of workers and communities like Silicosis or pneumoconiosis, the environmental health of communities as a result of toxic and polluted land, water and air by mine tailings and irresponsible mining operations have not been properly addressed in the implementation of the PMKKKY either directly through rehabilitating affected workers and communities or using the DMF funds to enhance the institutional functioning of the labour departments, PCBs and other concerned departments for vigilance, laboratories for testing of water or soil, equipment and medical facilities for occupational health issues, pensions or supplementary nutrition for affected victims, etc to monitor compliance by companies and health of workers and communities.

Since the mining sector has very low employment in the formal sector and is dependent on large scale informal labour force from **marginalized populations, the DMF funds should have a dedicated fund for occupational health, social security, and mine safety standards regulation and security.**

5. **Women and Children:** In most mining affected areas, both in large scale and informal mines, we find many widows, single mothers and women having to take the burden of earning as male members are either migrating, dead or are seriously affected by ill-health, accidents and chronic diseases. Serious illnesses especially among informal workers like Silicosis, tuberculosis, mine toxicity related health problems, mine workers' health affected by accidents, reproductive health issues of women and adolescent girls living and working in the mines, etc are not addressed or simply categorized as addressed through civil works of general hospitals. Women and children are also a high priority area which is commendable. However, the critical issues of women and children as a result of mining operations causing child labour, school-drop out and migration, malnutrition, substance abuse, women's loss of livelihoods from losing land, forests and leaving behind contaminated agricultural fields, for example, are not receiving any relief from the PMKKKY. Women as care-givers to victims of silicosis and other occupational health problems in their families are in urgent need of food security, health rehabilitation, pensions support, care-giving tools and aids, and livelihood security. Women farmers whose primary sources of income and livelihoods from land, forests, livestock breeding, artisan trades and other traditional occupations are directly affected by negative impacts of mining. The guidelines for DMF funds should clearly state these critical areas as high priority for women and not merely some minor ad hoc welfare incentives. **There should be a dedicated social security fund for women from affected communities and informal women mine workers, as they face the most losses from mining industry operations.** Women from mining affected communities should receive high priority

support from the DMF funds for their locally sustainable forest and land-based livelihoods, not in fragmented or one-off welfare schemes like sewing machines or seeds or cooking stoves, but through comprehensive and effective support for their practical as well as economic needs that bring substantial restoration of their livelihoods. In many mining affected areas, women's major demand is for the DMF funds to be allocated under the MGNREGS for guaranteed employment of 200-300 days a year that would provide local income as well as eco-systems restoration. The guidelines should include these linkages with DMF funds.

A critical population of affected people by the mining industry are adolescent boys and girls who are forced to enter the mine labour workforce as young as 12 and 13 years of age. This is the most neglected group as they are most vulnerable to child labour, substance abuse, sexual exploitation, occupational health and malnutrition but do not have any dedicated social security, education or development programmes. There are huge challenges in their re-enrollment into school with no opportunities for vocational skills. The DMF fund should have a special fund for this age group with dedicated education, skill development and health support programmes in order to prevent a situation of intergenerational bonded labour. The Intergenerational Equity Fund should have guidelines for this age group.

- 6. Comprehensive Planning of all mineral welfare funds, royalties, penalties and all cycles of mining:** Apart from the DMFs, the mineral sector has several other welfare funds under the Ministry of Labour – the Iron-ore, the Dolomite, the Mica, Chromite and other mine worker welfare funds. Some of the states like Odisha, Karnataka, Goa have set up special funds from collection of penalties due to illegal mining activities as per the Supreme Court appointed Justice Shah Commission recommendations. There is no public disclosure of information on planning, utilization or monitoring of any of these funds and royalties and how the sharing in utilization between the DMF and these other funds are being made. The PMKKKY guidelines should include disclosure and five-year planning of district level and mineral wise welfare funds in convergence with the Ministry of Labour. The state DMF rules should also include these details of governance, convergence and monitoring.

DMF funds should focus on allocations for pre-mining, operational mining and post-mining and illegal mining related restoration, mitigation and activities for upholding the entitlements of local communities in all three phases. An important focus should be on processes of land and forest entitlements, implementation of the FRA, land reclamation and restoration of rights and land development needs of affected farmers.

- 7. Convergence with other departments and funds:** The guidelines do not spell out the need for convergence with priority needs and constitutional provisions of tribal areas like alignment with the implementation forest rights laws and correction of inadequate implementation or non-compliance/violations of the FRA by the mining operations, use of the DMF funds for settlement of rights, increase in human resource for speedy process of settlement of forest rights, linking the FRA, MGNREGS, CAMPA and DMF for land development and restoration support for improving livelihoods of forest dwellers, restoration and repair of lands and forests, post retirement/closure of mines and improving the biodiversity of community forest lands. Afforestation plantations, CAMPA and other Green India projects are being implemented as compensation to forest lands diverted for mining activities through bringing in bilateral, multilateral loans and

investments whereas DMF funds intended for this very purpose are being mis-utilised or un-utilized. Neither are the DMF funds being utilized dynamically for linking the alternate/renewable energy and other sustainable solutions for low-cost, locally owned and managed decentralized facilities like meeting the cooking and domestic energy needs of mining affected women whose firewood collection and grazing rights have been destroyed. Rather than using the DMF funds for line department programmes, the effort should be in bringing additional resources to mining affected areas from the line departments to meet the complex problems arising out of mining impacts. A clear example is that of intensive allocations under the National Tuberculosis Programme like the recently launched Aashwasan for TB-free tribal areas and similar additional allocations for Silicosis prevention and rehabilitation. We request that the guidelines make specific mention of these.

8. **Governance:** The governance of the DMF funds is not aligned with the decentralized governance requirement. Neither are the committees properly representative of affected communities nor the manner in which planning and allocations are made although the Ministry orders for consultation. Identification of directly and indirectly affected areas is still very blurred and ambiguous. Mapping of mining impacts and micro planning for DMF projects excludes the Gram Sabhas (especially in Schedule Five areas where most of the largescale mines are implemented), the Forest Rights Committees, the School Management Committees, the Biodiversity Committees or the Mothers' Committees from taking the lead and monitoring the PMKKKY. The guidelines should incorporate strengthening of decentralized institutional mechanisms under the Constitution in order to deliver speedy and improved governance. In Schedule V Areas, the Gram Sabha should be the primary institution to identify mining impacts, extent of impacts, priority areas and modalities of the five-year plan. Gram Sabha should have the right to undertake a Community Audit of mining operations and DMF implementation. In other areas, the Gram Panchayat should be the primary institution in decision-making like utilizing the DMF funds for district administrations to increase human resources for targeted approach to implementing the FRA, setting up of PESA committees and strengthening the Gram Sabhas, improving the labour regulation and vigilance of mining projects especially illegal mining, environmental monitoring training and reporting of Gram Sabhas, strengthening and making accessible the water and soil testing laboratories for communities to monitor their water sources and agricultural yields, strengthening the public health systems through training of PHCs and ASHA workers on identification and follow-up of silicosis and other OHS illnesses, actions on illegal mining, and such other institutional systems.
9. **PMKKKY and land entitlement:** The guidelines should include the use of DMF funds for handing over of lands acquired for mining back to affected communities and displaced families and of forest lands back to local communities particularly in the scheduled areas who have been dwelling in the affected area since 2005. The process of FRA recognition should be completed with the funds accumulated under the PMKKKY and land restored to affected communities before any other projects/activities are proposed or licensed. The guidelines should include mention of part of the proceeds from the DMF funds to be utilized for the purpose of establishing an intergenerational equity fund.
10. **Green Credits for Mining Affected Communities and Women:** While large mining companies are given green credits for tweaking with technology while continuing to destroy biodiversity, local communities, particularly Adivasi women whose sustainable

use of biodiversity is hampered by irresponsible mining should be supported from the PMKKKY programme for promoting and regenerating their nature-based livelihoods and for protecting their biodiversity from the DMF funds. The PMKKKY should also provide within its guidelines, the green credits to communities protecting and restoring landscapes destroyed by mining and for their eco-systems conservation practices, for protecting the community conserved areas, providing incentives to villages and farmers declaring natural farming in mine restoration areas and such other support. These should be incentivized through fiscal and other benefits like the intergenerational equity fund, Gram Sabha/panchayat funds, as currently only industries and urban public are gaining from so called green investments or utilities.

Suggestions for specific sections of the Guidelines

Affected people: Section 2 should include:

People who are affected not only by land being acquired but by being affected on water bodies due to mining operations diverting/polluting/depleting both surface water and groundwater.

People whose air and noise are polluted by mining and blasting operations, transportation of vehicles for mining activities and other related activities.

People whose individual and community forest rights under the FRA are affected whether their rights have been recognized or not.

Workers – informal workers, mine workers in illegal mines, minors working in the mines should be included.

High priority areas –

- a) **Drinking water** – not just drinking water as in water treatment plants or hand pumps which are ad hoc but priority should be for cleaning up, rejuvenation and restoration of rivers, streams, tanks and other water bodies destroyed/depleted/contaminated either directly or indirectly as a result of mining operations and ensuring potable, sustainable, regular and accessible drinking water and handing over of water bodies to local communities.
- b) **Environment preservation:** The EIA and ESIA should be the basis and reference for environmental monitoring, review and DMF planning on environmental clean-up, restoration, prevention and punitive actions. Not only drinking water but water bodies that affect irrigation and affected communities' agriculture, grazing, common lands, biodiversity and livelihoods should be assessed from time to time in consultation with the Gram Sabhas and panchayats. The PMKKKY funds should be allocated for decentralized environment governance with consent and feedback of Gram Sabhas of affected communities being made mandatory on mine management review and monitoring. Compensation for annual agricultural losses, grazing losses, firewood losses, restoration of agricultural lands and groundwater aquifers should be given high priority in the use of DMF funds. City beautification, avenue gardens and such other cosmetic environment preservation activities should not be brought under the DMF allocations but focus should be on biodiversity conservation, community forest management for forest and biodiversity regeneration, land reclamation of mine pits and handing over of lands to affected people, mine retirement and handing over of community forests and commons to affected Gram Sabhas/forest dwelling communities should take high priority.

- c) **Health care**-The guidelines should emphasise health problems related to mining impacts like occupational health and safety issues- identifying, diagnosing, treatment, social security and rehabilitation of affected workers, mining affected communities suffering from silicosis, TB, mine accidents, injuries, -especially those workers in the informal sector; setting up of preventive measures-increasing the budgets for human resource for vigilance and punitive actions on erring mine owners, contractors, companies are some critical areas for the guidelines to emphasise.
- d) **Education:** The criteria and type of programmes under the category of children have to be reviewed and the guidelines should focus on impacts of mining on children in these areas, rather than general spending on children that other departments are obligated to deliver. The guidelines should provide instructions for conducting child census and baselines to track basic trends from time to time on the children from mining affected areas and impacts on their health, education and social security impacted by mining operations either due to displacement/relocation, migration or other obstructions caused due to mining operations (like safety concerns arising out of movement of heavy vehicles and high rate of outsiders/labourers causing both physical and social insecurity for children to travel to school). DMF Funds should be utilized for setting up of schools for school drop-out children of mine workers (with greater focus on PVTG, dalit, devadasi and other minority children) in lines with the KGBVs, vocational skills training and higher education support for adolescent children of mine workers. De-addiction centers for children suffering from substance abuse in mining areas, supplementary nutrition for children and youth suffering from tuberculosis due to impoverishment of mining affected families, improving public roads and transport for children to travel to schools and colleges need special attention as roads in mining affected areas are being mostly built from DMF funds for easy access of mining companies to their mine sites than for children to travel for education. The DMF funds should be utilized for special health assessment programmes of children in mining areas as children suffer from mine toxicity related illnesses, wasting and neglect.
- e) **Women and children:** These are mentioned above. In addition, guidelines should include planning for setting up women protection institutions like free and accessible legal aid to women whose compensation/rehabilitation has not been fulfilled by the mining companies/authorities concerned; counseling and support regarding sexual harassment at the workplace where women are working in both formal and informal mines, support institutions to be set up to provide free assistance to women for obtaining labour cards under the shramik portal and benefits from the BoAC and other mine welfare funds, 24/7 support centres for migrant women's emergency and social security benefits, setting up Sakhi centres/One stop centres near mining areas for women and children to prevent trafficking which is very high in mining areas; shelters for single and unwed mothers in mining areas and their livelihood rehabilitation; decentralized solar and alternate energy enterprises for women's groups and such other supplementary support and primary assistance to uphold their entitlements and security.

Sincerely,

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