

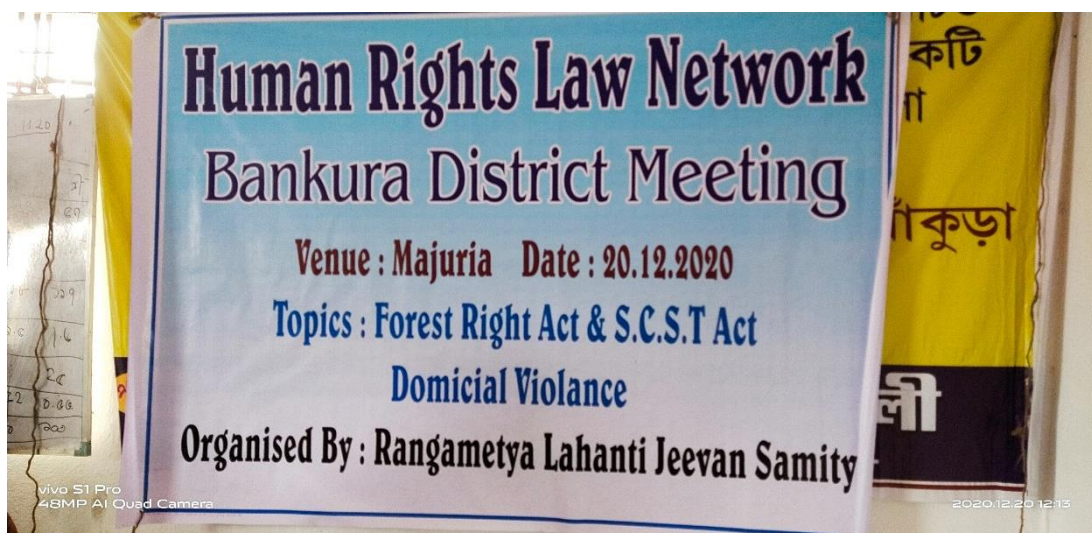
BANKURA DISTRICT MEETING

Date: 20.12.2020

Time: 11 AM - 3PM

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Edited By: Venkatesh Kodukula



Forest Rights Act, S.C./S.T. Act and Domestic Violence.

Schedule for Meeting

Time	Session	Speaker
11:00- 11:05	Introduction of HRLN	Billeswar Sinha, Advocate of HRLN, Bankura District
11:05-13:00	Forest Rights Act 2006 Domestic Violence Act 2005 S.C./S.T. Act 1989	Soumitra Karmakar Chakraborty(Advocate of HRLN,Kolkata), Billeswar Sinha, Advocate of HRLN, Bankura District and Lakhinda Murmu,Social Activist
13:00-13:30	Lunch Break	
13:30-14:00	Life Journey and Ban of Acid Awareness	Sanchayita Jadav(Social Activist, HRLN Kolkata)
14:00-14:30	Interactive Session	

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INTRODUCTION

The Forest Rights Act (FRA), 2006 recognizes the rights of the forest dwelling tribal communities and other traditional forest dwellers to forest resources, on which these communities were dependent for a variety of needs, including livelihood, habitation and other socio-cultural needs. The forest management policies, including the Acts, Rules and Forest Policies of Participatory Forest Management policies in both colonial and post-colonial India, did not, till the enactment of this Act, recognize the symbiotic relationship of the STs with the forests, reflected in their dependence on the forest as well as in their traditional wisdom regarding conservation of the forests. The Act further enjoins upon the Gram Sabha and rights holders the responsibility of conservation and protection of biodiversity, wildlife, forests, adjoining catchment areas, water sources and other ecologically sensitive areas as well as to stop any destructive practices affecting these resources or cultural and natural heritage of the tribal. The Gram Sabha is also a highly empowered body under the Act, enabling the tribal population to have a decisive say in the determination of local policies and schemes impacting them.

The Scheduled Castes and Tribes (Prevention of Atrocities) Act, 1989 is an Act of the Parliament of India enacted to prohibit discrimination, prevent atrocities and hate crimes against scheduled castes and scheduled tribes . The Act is popularly known as the SC/ST Act. It was enacted when the provisions of the existing laws (such as the Protection of Civil Rights Act 1955 and Indian Penal Code) were found to be inadequate to check these crimes (defined as 'atrocities' in the Act). Recognising the continuing gross indignities and offences against Scheduled Castes and Tribes, the Parliament passed the 'Scheduled Castes and Schedule Tribes (Prevention of Atrocities) Act 1989.

Speaker 1:

Billeswar Sinha, Advocate of HRLN, Bankura District

The speaker introduced the entire team of HRLN and started a brief description about the organization's work for providing Legal Aid to the litigant, organization's do pro bono legal services to those with little or no access to the justice system, and runs a helpline for people seeking such help. It also conducts litigation in the public interest.

The speaker discussed about the Forest Rights Act 2006 and mentioned The Indian Forest Act, 1927 was enacted which was in favorable line of reasoning with the British. As a consequence, the forest dwellers lived in their own land with a sense of territorial insecurity and instability. The forest dwellers remained a marginalized community even after independence.

He stated there are two stages to be eligible under this Act(mentioned below):

- As per Section 2(o) of the act, the above conditions need to be true for three generations in which case, the person is an "other traditional forest dweller" or,
- As per Sections 2(c) and 4(1), the person is a member of a scheduled tribe or is residing in the area where they are scheduled.

The speaker mentioned that the act will ensure that people get to manage their forest on their own which will regulate exploitation of forest resources by officials, forest governance and management as well as tribal rights etc. He stated that Community Forest Resources are monitored and managed in a way which protects marginal communities' traditional linkages with these. It is known how these communities have always traditionally utilized the forest resource for the sustainable development. It protects intellectual property rights and the traditional knowledge related to cultural diversity and biodiversity.

He stated that the Gram Sabha shall be the authority to initiate the process for determining the nature and extent of individual or community forest rights or both that may be given to the forest dwelling Scheduled Tribes and other traditional forest dwellers within the local limits of its jurisdiction under this Act by receiving claims, consolidating and verifying them and preparing a map delineating the area of each recommended claim in such manner as may be prescribed for exercise of such rights and the Gram Sabha shall, then, pass a resolution to that effect and thereafter forward a copy of the same to the Sub-Divisional Level Committee.

The State Government shall constitute a Sub-Divisional Level Committee to examine the resolution passed by the Gram Sabha and prepare the record of forest rights and forward it through the Sub-Divisional Officer to the District Level Committee for a final decision.

He mentioned that the holders of any forest right, Gram Sabha and village level institutions in areas where there are holders of any forest right under this Act are empowered to-

- Protect the wild life, forest and biodiversity
- Ensure that adjoining catchments area, water sources and other ecological sensitive areas are adequately protected
- Ensure that the habitat of forest dwelling Scheduled Tribes and other traditional forest dwellers is preserved from any form of destructive practices affecting their cultural and natural heritage
- Ensure that the decisions taken in the Gram Sabha to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forest and the biodiversity are complied with

Speaker 2:

Soumitra Karmakar Chakraborty, Advocate of HRLN, Kolkata

The speaker discussed and highlighted about the importance of Forest Rights Act 2006(mentioned below).

- Community rights and rights over common property resources like use of forest land for livelihood, ownership, conservation etc. have been recognized.
- Individual rights of the tribal and marginalized forest communities have been Safeguarded and it gives rights for conversion of pathas to titles and settlement rights which include conversion of forest villages into revenue by various means.
- It expands the mandate of the Fifth and the Sixth Schedules of the Constitution that protect the claims of indigenous communities over tracts of land or forests they inhabit.
- The act will ensure that people get to manage their forest on their own which will Regulate exploitation of forest resources by officials, forest governance and management as well as tribal rights etc.
- Community Forest Resources are monitored and managed in a way which protects marginal communities' traditional linkages with these. It is known how these communities have always traditionally utilized the forest resource for the sustainable development.
- It protects intellectual property rights and the traditional knowledge related to cultural diversity and biodiversity.

She mentioned as per Section 6 of the Act, the Gram Sabha is the authority to initiate a process to vest rights on marginally and tribal communities after assessment of the extent of their needs from forest lands.

Gram Sabha after its assessment, receives claims of the communities, consolidates and verify these to help them exercise their right. After which it passes the resolution to sub-divisional level committee Sub-Divisional Level committee after its assessment, passes the resolution to Sub-divisional officer to district level committee for its final decision

The district-level committee's decisions are considered final and binding and the land recognized under this Act cannot be sold or transferred.

The speaker further discussed on the SC/ST Act talking about the various provisions and laws related to the safeguard and prevention of atrocities towards the SC ST persons. She mentioned about the offences of the atrocities and the punishments for them, for example, any kind of wrong deed like forcing a person from SC/ST community to forcefully leave their house, intentionally hurts or humiliates, assaults, sexually abuse, insult or outrage modesty would make the non-SC/ST person subjected to imprisonment of 6months-2years.

She spoke about the different forms of domestic violence covered, the procedures involved by the Act, different custody/compensation orders. She mentioned that the Act covers all women who may be mother, sister, wife, widow or partners living in a shared household, the relationship may be in nature of marriage or adoption. In addition relationships with family members living together as a joint family are also included. However, no female relative of the husband or the male partner can file a complaint against the wife or the female partner, for e.g. the mother-in-law cannot file an application against a daughter-in-law, but she can file an application against her daughter-in-law for abetting her son to commit violence against her.

She stated that the complaint of domestic violence can be filed by the 'aggrieved person'. It means a woman who has been in a domestic relationship with the respondent (a man in a domestic relationship with such women) and alleges that he has inflicted domestic violence upon her. Domestic Relationship refers to a relationship between two people who live or have lived together in a shared household, and are related by:

- Marriage
- A relationship in the nature of marriage (like live-in relationships)
- Adoption
- Are family members
- Are related through blood relations.

Speaker 3:

Lakhinda Murmu, Social Activist

The speaker discussed about the SC/ST Act and the problems faced by the local tribal communities. He stated that any individual from a “scheduled area” or a “tribal area” who is likely to commit offence against the SC/ST community should be removed. On the occasion of non-removal of such a person the Special Court can give permission to get such a individual arrested. The penalty of non-compliance leads to 1 year of imprisonment with fine.

He mentioned about the duties, powers and responsibility vested on the government body where they can make decisions and prosecute people who conspired and hurt people from the SC/ST community.

The speaker stated that Scheduled Castes and the Scheduled Tribes remain vulnerable. They are denied a number of civil rights and are subjected to various indignities, humiliations and harassment. They have, in several brutal incidents, been deprived of their life and property. Due to the awareness created amongst the Scheduled Castes and the Scheduled Tribes through spread of education, etc. they are trying to assert their rights and resist practices of untouchability against them by demanding statutory minimum wages or refusing to do any bonded and forced labour. In response, the vested interests try to cow them down and terrorize them. There has been an increase in the disturbing trend of commission of certain atrocities like asking the Scheduled Caste persons to eat inedible substances like human excreta and attacks on and mass killings of helpless Scheduled Castes and Scheduled Tribes and rape of women belonging to the Scheduled Castes and Scheduled Tribes.

He mentioned that the holders of any forest right, Gram Sabha and village level institutions in areas where there are holders of any forest right under this Act are empowered to-

- Protect the wild life, forest and biodiversity
- Ensure that adjoining catchments area, water sources and other ecological sensitive areas are adequately protected
- Ensure that the habitat of forest dwelling Scheduled Tribes and other traditional forest dwellers is preserved from any form of destructive practices affecting their cultural and natural heritage

- Ensure that the decisions taken in the Gram Sabha to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forest and the biodiversity are complied with.

Speaker 4:

Sanchayita Jadav, Social Activist, HRLN Kolkata

The speaker shared her life journey and spoke about the Ban Acid Awareness Campaign. On September 22, 2014 she was attacked with acid as she didn't respond to the romantic advances on being approached by a man. She was hospitalized for 19 days in a Government hospital in Kolkata. She lost her right eye vision due to the attack. During this time, the family support is very needed and, in her case, it was her mother and friend who is presently her spouse. The police atrocity and negligence were noticed. After four long years, accused was arrested after the judgement passed by Honourable Justice Dipankar Dutta, Calcutta High Court. The Judiciary system is extremely biased and such cases should be looked upon immediately without any delay.

RECOMMENDATIONS& ACTION PLAN

- Kalpana Mondal(Petitioner before High Court) hails from Bankura. Her husband Late Gopal Mondal was in Judicial custody in Bankura District Correctional Home. The news of custodial death reached the petitioner and a complaint was filed by the petitioner with the police station where the Jail Super and Jailor were impleaded as the accused person. A post mortem was conducted over 48 hours after death. The death appears to have been unnatural and that the State authorities are trying to hide something. It is apparent that the instant case is one of custodial death and accordingly HRLN has filed Writ Petition before the High Court in Kolkata to persue proper investigation and completion of Magisterial enquiry. Prayers of compensation to the victim's family has also been made.
- Habeas Corpus – The conductor(khalasi) has been missing and complaint filed a case at Durgapur Police station. Full report awaiting. *

INTERACTIVE SESSION

An interactive session was opened up for the audience. In this interactive session, the participants who mainly hailed from the forest community, SC/ST community raised various questions which were answered by the speakers of the meeting. There were participants facing domestic violence and had queries in regard to how to take necessary action against the accused.

Participants:

Sl No	Name	Email Id	Contact Number
1.	Sree Iswar Mandi		
2.	Panchami Mandi		9735162872
3.	Santara Sarem		8436631916
4.	Purabi Murmu		9734625593
5.	Tanusree Hembram		838981233
6.	Fakir Mandi		6291796434
7.	Sanjit Kr Baskey		7865975118
8.	Rabindranath Murmu		8670655670
9.	Papu Hanjda		7872407029
10.	Amulya Ch. Hansda		7364970832
11.	Siddhartha Namra		6296565353
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