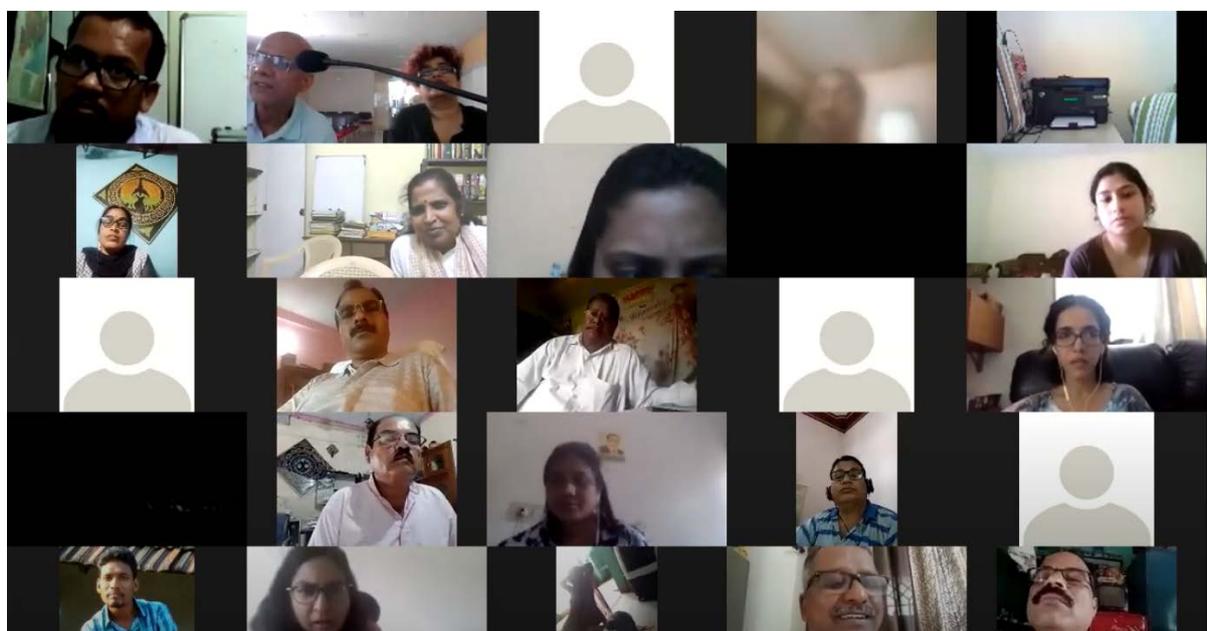


**Report on**  
**Orissa State Level Meeting**  
**08.08.2020**

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## ODISHA STATE LEVEL MEETING

**DATED 08.08.2020**

**TIME 10.AM TO 2 PM**

### Tentative Agenda

<i>Time</i>	<i>Session</i>	<i>Speaker</i>
10.00 - 10.15	Introduction	Sarita Barpanda, Director, HRLN
<i>Session I- Migration and Labour Issues</i>		
10:15- 10:30	Migration and Challenges During Coivid19 Pandemic	Mr. Lokanath Mishra, Founder, ARUNA
10:30- 10:45	Labour Issues in Odisha	Mr. Pradepta Nayak, Convenor, Centre of Indian Trade Union
10:45- 11:00	Discussion	
<i>Session II- Right to Food</i>		
11:00 – 11:15	Right To Food And Challenges In Odisha	Mr. Rajkishore Misra, Convenor, Right to Food Campaign
11:15 – 11:30	Discussion	
<i>Session III- Environment and Forest Rights</i>		
11.30 To 11:40	Environment Challenges In Odisha	Sh. Sandeep Patnaik, National Centre for Advocacy Studies.
11:40 – 11 :50	Tribal and Land Acquistion Issue And Challenges	Mr. Balakrushana Ponda, Centre for World Solidarity
11 :50 – 12: 00	Environment Challenges faced by the Tribals in the districts of Debagarha, Kalahandi, Rayagoda	Mr. Prasanta Mohanty, State Head, NIRMAN, Odisha

	<i>And Nayagarha.</i>	
<i>12 :00 – 12:10</i>	<i>Tribal And Forest Right: Challenges (18 Districts)</i>	<i>Mr.Y Giri, Director, Basundhra</i>
<i>12:10 – 12:30</i>	<i>Tribal And Forest Right: Challenges faced - 1. Koprput Distict 2. Nimapoda, 3. Puri 4. Balipatna 5. Khordha</i>	<i>Mr.Pradeep Moharana Gopabandhu Seva Parisad, Koraput &amp; Puri District  Mr.Nakula Swain, Jogeswari Yuvak Sangha,</i>
<i>12:30 – 12:40</i>	<i>Discussion</i>	
<i>Session IV- Land Acquisition</i>		
<i>12:40- 12:50</i>	<i>Land And FRA Issues And Challenges (Specific Focus On Kalahandi, Keonjhar, Bolangir, Mayurbhanj District)</i>	<i>Mr.Pravash Misra, Regional Manager, Regional Centre Development Cooperation</i>
<i>12:50 – 1:00</i>	<i>Land Acquisition Issues In Jharsuguda District</i>	<i>Gopinath Majhi</i>
<i>1:00 – 1:10</i>	<i>Discussion</i>	
<i>Session V – Rights of the LGBTQ A+</i>		
<i>1:00 – 1:15</i>	<i>Rights of LGBTQIA+ and challenges faced by them during Covid 19 pandemic</i>	<i>Meera, Founder and President, SAKHA</i>
<i>1:15- 1:30</i>	<i>Discussion</i>	
<i>1:30</i>	<i>Concluding Remarks</i>	<i>Sarita Barpanda, Director, HRLN</i>

### Eminent Speakers.

- **Mr. Loknath Mishra**  
Mr. Mishra is the founder of ARUNA.
- **Mr. Pradepta Nayak**  
Mr. Nayak is the convenor of Centre of Indian Trade Union.
- **Mr. Rajkishore Misra**  
Mr. Mishra is the convenor of Right to Food Campaign.
- **Sh. Sandeep Patnaik**  
Sh. Patnaik is associated with the National Centre for Advocacy Studies.
- **Mr. Balakrushana Ponda**  
Mr. Ponda is Associated with the Centre for World Solidarity.
- **Mr. Prasanta Mohanty**  
Mr. Mohanty is the State Head of NIRMAN, Odisha.
- **Mr. Y. Giri.**  
Mr. Giri is the Director BASUNDHRA.
- **Mr. Pradeep Moharana**  
Mr. Moharana is a member Gopabandhu Seva Parisad, Koraput and Puri District.
- **Mr. Nakula Swain**  
Mr. Swain is a member of Jogeshwari Yuvak Sangha.
- **Mr. Pravash Misra**  
Mr. Misra is the Regional Manager of the Regional Manager of the Regional Centre Development Cooperation.
- **Meera**  
Meera is the founder and president of SAKHA.

### Lawyers/Activists from HRLN

- Adv Sneha Mukherjee
- Adv. Meenaz Kakalia
- Adv. Aditi Saxena.
- Sangeeta Banerjee
- Shaoni Mukherjee.

## Introduction

Human Rights Law Network conducted a webinar with the representatives of major grass root organisations and movements in Orissa which are working on various human rights issues. The main agenda of the webinar was to discuss the problems faced by the migrant workers of Orissa during the pandemic. Comprehensive discussions were held on several issues which were related to the problems faced by migrant workers. These included issues such as land acquisition, environmental matters, LGBTQI issues etc. in the state of Orissa.

The main objective of the webinar was to identify how HRLN could provide legal support and advice to the movements and organisations to take their causes to courts.

### Session-1: Migration and Labour Issues.

**Mr. Loknath Mishra; Mr. Yudhisthir; Mr. Pradepta Nayak.**

#### **Mr. Loknath Mishra**

Mr. Loknath has worked with various migrant workers from Orissa, who worked in Gujarat and Maharashtra. He explained that migration is a natural phenomenon in India and there are many people who are on the move, but, amongst them, migrants of a circular nature or translocators were the most vulnerable to being exposed to the pandemic. He observes that the COVID-19 pandemic has brought about a major socio-behavioural impact on the migrant workers. Most of migrant workers of Orissa migrate to Gujarat (Surat), Maharashtra and Andhra Pradesh.

He narrated his personal experience about meeting hundreds of migrant workers on National Highway 16. This highway runs from Orissa to Andhra Pradesh. He recounted that there were pregnant women and small children amongst those who were walking back to their home. The migrants had neither food to eat nor water to drink. Some had walked hundreds of kilometers already, yet, had several hundred more to go. They had been walking for weeks. Entire city was empty due to the COVID-19 guidelines issued by the Central Government, but hundreds of migrants were walking on the road. All this reflected the failure of the Central Government to plan in advance for the movement of migrant workers when the lockdown was imposed. The guidelines issued by the Government called for strict lockdown and social distancing and people were discouraged from stepping out of their homes. Yet, on the contrary, millions of migrant workers could be seen on the roads.

Moreover, if this was not enough, migrants who came to Orissa were further blamed for bringing the virus with them and causing exponential rise in the COVID-19 cases in the state. However, it is not the migrants but the busses and trains in which they came from which had to be blamed for the rise in COVID-19 cases. It is the system which is to be blamed for the rising cases. The Government was not prepared to handle the situation which was evident due to the lack of proper transportation, sanitation, food, and water facilities for the migrant workers who were on the move. For instance, when the buses moved from Surat there were

no COVID-19 positive cases. But by the time the buses reached Orissa, migrant workers were found to be infected. Moreover, the treatment centres where the migrant workers were kept when they returned included schools and community centres which were not at all equipped to deal with the crises. Hospitals too are inadequately equipped to deal with the crises.

Home quarantine measures too proved to be ineffective for the migrant workers. Most of the homes of the workers lack basic sanitation facilities and do not even have separate bedrooms. This meant that the workers could mingle with their families freely leading to rapid spread of the virus from workers to villagers and then to rest of the people.

Mr. Mishra lamented that The Inter-State Migrant Workmen Act of 1979 has been totally rendered ineffective. It may exist in theory but has become totally non-existent in practicality. For instance, under the Act, migrant workers are to be provided with food, accommodation, and medical care by the employers. However, the migrants were provided with nothing. Thus, the migrants started moving.

This only shows that migrant workers have low social status, a highly reduced say in the decision-making process, no rights, high insecurity and vulnerability, and no dignity. Migrant workers are left with no source of income and are extremely vulnerable to the infection.

The local economy too has taken a hit. Migrant workers used to send a lot of remittances back home. However, due to loss of income the remittances too have stopped. Moreover, many migrants are being told to change their line of work. Thus, a person who has been working in textile industry for a long time is being asked to work in agricultural sector. Many migrants cannot make that switch as they lack the requisite skillset for the same.

However, with the state government failing to create adequate jobs at home, the migrant workers are returning to their former places of work. They are doing so without registering themselves which means they will not be able to avail any benefits from the welfare schemes launched by the government. Repeated requests made to the government for registration fell on deaf ears. Thus, migrants are facing exploitation both from the central and the state governments.

Mr. Loknath further highlighted a peculiar problem faced by the inhabitants of Ganjam district in Orissa. Approximately 40% of the people infected with AIDS in Orissa live in this district. The pandemic has exacerbated the problem of AIDS infection and undone the progress which had been made in the past. AIDS leads to weakening of the immune system which means that those who have AIDS are already more vulnerable to the COVID-19 virus. With the lack of proper medicines for AIDS (which are to be taken daily), there are apprehensions of high casualties. Three persons having AIDS have already succumbed to COVID-19.

Mr. Loknath raised the following points to be raised in the petition:

- Registration of Migrants both at the source and the place of work.

- Inter-state cooperation as per the provision of the Inter-State Migrant Workmen Act 1979.
- Insurance support to migrants via the provisions of the Insurance Act as present in Inter State Migrant Workmen Act 1979.

Mr. Colin Gonsalves pointed out:

- The Hon'ble Supreme Court had recently passed an order calling for registration of inter-state migrants.
- He advised Mr. Loknath to file a petition in the Orissa High Court as soon as possible regarding the registration of migrant workers as the main issue.
- The issue of payment for travel and accommodation of the migrant workers by the two state governments should also be included in the petition.

### **Mr. Yudhishtir.**

Mr. Yudhishtir is a Senior Advocate in the High Court of Orissa. He highlighted the problems faced by the tribal population of Orissa due to the COVID-19 pandemic and lockdown especially in Nuapada and Kalahandi districts which have a high tribal population. These districts are infamous for rampant malnutrition and hunger deaths. The COVID-19 lockdown has severely impacted the sale of minor forest produce (e.g.- oilseeds, bamboo items etc.) which were a source of income for the tribal people. This is because of the mobility restrictions faced by the licence holders and government officials due to the lockdown. This means that the produce does not reach the markets and when they do, they are sold at extremely low prices.

He points out that even though natural resources and forest produce exist, but, they are being sold at exceptionally low prices, out of which, a major chunk of the money goes to the licence holder and a nominal amount is given to the migrant tribal workers.

A PIL has been filed in the Orissa High Court wherein the following directions have been prayed from the Court.

- Government Co-operative societies to purchase the minor forest produce directly from the beneficiaries at a fixed price.
- Registration of the migrant workers should be done by panchayat level officers. This is because at present migrant workers travel 100-200km to get their names registered. Sometimes the authorities refuse to register their names. The process is so tedious that migrant workers refuse to get themselves registered. Thus, Panchayat executives should directly register the migrant workers.
- Such a change should be enforced throughout the country. This will ensure that migrant workers across the country are able to avail the benefits of the government insurance schemes and labour welfare schemes which mandate prior registration of workers. These schemes are extremely important for the migrant workers as most of them work in extremely dangerous places such as brick kilns and no compensation are paid to their families on their deaths if they are not registered.

Mr. Yudhishtir explains that once the registration is done by Panchayat level officers then the migrant workers would be able to avail the benefits of the government schemes at both the States (home State and State of work) , provided the two states have signed a MoU in this regard. At present, Government of Orissa has an MoU each with Government of Andhra Pradesh and Government of Gujrat. MoU's should be signed with all the states. There must be a Central legislation or a circular or notification issued by the Central Government in this regard.

### **Mr. Pradipta Nayak**

Mr. Pradipto works closely with daily wage construction workers and sanitation workers in universities and hospitals.

He describes the situation of the migrant workers across the country to be a “defeated situation.” He uses such strong words as he feels that such a situation was caused due to the imposition of a sudden country-wide lockdown without any adequate planning done for the same. There was no attempt by the Central Govt. to understand the parameters before announcing the lockdown.

The working-class people had to face the brunt of this lockdown. Many of the workers who are skilled, find themselves to be idle today. This is a situation of palpable wastage of human resources. The Orissa Govt. had assured the trade unions that it would provide 2 lakh jobs every day for migrant workers under MGNREGA. However, rampant corruption in the administration has ensured that this promise does not see the light of the day.

Moreover, despite having huge amounts of unemployment, a lot many jobs under MGNREGA are being carried out using machinery. This has led to huge loss of wages for the unemployed migrant workers who are sitting idle without any means of livelihood. Many petitions have been filed in this regard in the National Human Rights Commission and State human rights commission.

Another issue which Mr. Pradipta sheds light upon is that of availability or rather non-availability of ration.

- Many migrant workers who have come back to their homes in Orissa do not possess ration card which means that they cannot avail ration under the state government ration scheme. Mr. Pradipta and his trade union had requested the state government to provide 10kg of ration per head to the migrant workers, but government is still contemplating the matter.
- There was a scheme launched by the Orissa Govt. for providing 5Kg of rice at lower prices but non availability of food grains has ensured that even those who possess ration cards have not been able to avail the benefits of the scheme.

Orissa Govt. had also announced that Rs. 1,500 per month would be given to all the construction workers who have their labour cards. A total sum of Rs. 300 crores were allotted by the government for the said scheme. However, the Government distributed this money through Panchayats, Block Offices and Municipal Corporations which are centres

of rampant corruption. Hence, it comes as no surprise that the scheme has not succeeded to meet its objectives. More than 50% of the labourer card holders have not received their assistance. The labour board says it has released the money, but that money has not reached the beneficiaries. Furthermore, he worries about the fate of those labourers who do not possess any labour cards.

In light of the points raised above, Mr. Pradipta concluded the session by requesting HRLN to raise the following issues in Court:

- Workers of all categories should get a just compensation for the loss of income during the lockdown i.e. for approximately 50 days loss of work.
- Review of the minimum wages and grading criteria for wage labourers.
- The assistance should reach the labour card holders and the money should be directed through District Labour Offices and not through Panchayats and Municipal Corporations.

## Session-2: Right to Food

**Mr. Rajkishore Mishra**

**Mr. Rajkishore Mishra**

Mr Mishra spoke about right to food in Orissa.

He talked about a recent incident of starvation death in Orissa which was widely reported in the mainstream media. HRLN has promised to take this matter to the High Court in the form of PIL. He pointed out a few other points which could be highlighted in that case.

- From September 2019, AADHAR cards have been made mandatory for those who wish to avail the benefits of the PDS system. This has led to the exclusion of 18 Lakh people who were beneficiaries of the PDS system but do not have an AADHAR card.
- The Government is also contemplating to make AADHAR card mandatory for availing the benefits of the pension scheme. Pension is an entitlement and imposition of AADHAR cards for this scheme would lead to exclusion of a lot of vulnerable people from this scheme.
- There was an Emergency Feeding Programme under which the vulnerable and destitute people were given one-time meal. This programme was stopped in 2015. During the pandemic, the Orissa Govt promised to feed at least 100 people from all gram panchayats each under this scheme. However, this scheme has been stopped.

There must be a demand for community kitchens in both rural and urban areas to improve the food security situation in Orissa.

- The State Government should be committed to feed those who do not possess ADHAAR Cards and not discriminate between people based on possession of ADHAAR Cards especially during the pandemic.
- The state food security scheme promised by the government was to include 25Lakh beneficiaries. Due to the pandemic, the Government made a promise to add 5Lakh more people to the scheme. However, during the months of lockdown, the number of those who have actually benefitted is nowhere to the number promised by the Government. The Government must be reminded of its commitments.
- In the Right to Food case, 7 categories of beneficiaries were identified based on social vulnerabilities. The Antoday Ann Yojana (AAY) was made keeping in mind these beneficiaries. However, due to the pandemic the scheme must also include beneficiaries categorised on the basis of occupational vulnerability.
- AAY was deleted from the PDS guidelines in 2014. It was however re-added after a lot of campaigns and protests against its deletion. However, no attempt has been made to re-identify the beneficiaries again. This means only those who used to derive benefits from the scheme before 2014 are the ones deriving benefits today. The state government should undertake a fresh identification process for identification of beneficiaries as a lot of needy people have been excluded from the scheme.

Mr. Yudhishter claims that in Nuapada, the Panchayat has stopped the PDS scheme and no review has been done. The scheme has been stopped for 11 months. An application must be filed in Court on an emergency basis to bring this matter to the Court's attention.

Mr. Sumit suggested that Right to Food Campaign, Orissa and HRLN can work closely on this matter.

### **Session-3: Environment and Forest Rights.**

**Sh. Sandeep Patnaik; Mr. Balakrushana Ponda; Mr. Y. Giri; Mr. Nakula;**

#### **Mr. Sandeep Patnaik.**

Mr. Sandeep highlighted the environmental concerns due to mining projects in Orissa. Mining has been declared as an essential service and this has severely impacted the

environment in the state. Rampant mining is underway in Koraput district. This has led to large scale land acquisition by the government.

He further shed light on the situation in Sukinda town in Orissa which has some of the largest mines in India. It is also the 4<sup>th</sup> most polluted place in the world. The inhabitants of this place face several health risks. Every family has at least one person who has diabetes. Lack of clean water means that people are vulnerable to several diseases including cancer. Brahmani river flows in this region on which a lot of people rely upon for their basic needs. However, the water in this river is highly contaminated. The river has mostly dried up. Most of the deaths in this region happen due to Chromite related diseases. He requested HRLN get in touch with national and international organisations who could conduct a serious and comprehensive environmental impact assessment of the region.

70% of the Bauxite available in Koringamalli mines in Koraput district goes to Vendanta factory. This has been continuing despite the objections and protests raised by the Adivasi communities. There have been several instances of violation of local environmental and other rules. Moreover, the Orissa Mining Corporation, despite being a PSU does not follow proper guidelines while carrying out its operations. Extensive surveillance apparatus has been set up which have ensured that no fact-finding missions can be carried out. The entry of Adivasi workers from outside areas is banned and the government has even filed many false cases against Adivasi workers coming from outside.

Mr. Sandeep further highlighted that over 31,000 hectares of the Karlapat Wildlife Sanctuary is under Bauxite mining in Orissa. A lot of people living in these areas are protesting this. National and international support is required to support the peoples cause.

As far as the mega steel project of POSCO/Jindal group is concerned, public hearings have been held in a very condescending environment. Local people were not allowed to raise any objections and concerns. Their consent was manufactured. The matter is pending in EAC court and the judgement will be challenged in the court of law. Grassroot level protests against the POSCO issue is extremely fragmented. There is no strong leadership in this matter. There is a need to take a strong, unified action against this issue.

Moreover, during the POSCO days, Centre for Science and Environment (CSE) conducted extensive surveys and prepared a comprehensive Environmental Impact Assessment report for the project. He requested HRLN to get in touch with organisations who could conduct such extensive environmental impact assessments for the Jindal Project.

Mr. Sandeep also commented on the Draft EIA which was released by the Central Government recently and has come under criticism by various movements, NGO's and other organisations. These protests are legitimate as the Draft EIA if implemented would lead to massive dilution of internationally accepted environmental principles such as Precautionary Principle etc.

**Mr. Pradipto** further added that in the Sundergarh coal mines area, coalfields were leased to private companies who commenced their activities without paying proper compensation to the tribal people affected by these projects. Thus, loosely translated it means that people are

being displaced without any compensation being given to them. HRLN should raise these gross human rights violations in the court of law.

**Mr. Balkrushana Ponda and Mr. Ramakrishna.**

Mr. Ponda and Mr. Ramakrishna pointed out that several employment schemes had been launched by the Orissa Govt. However, they have not been taken seriously and exist mostly on an ad hoc basis. Most of these schemes were stopped within a short time of their being announced.

Another issue raised by him was that of tribal land being illegally transferred from tribal people by the non-tribal people. Moreover, tribal lands are being illegally leased out for growing cash crops especially in Koraput district and a few other districts. Such transfers of tribal land are not permitted by law.

Recently, a project for demarcation of land was taken up by the Orissa Govt. However, this project is not free from loopholes. Approximately 50% of the people have not yet received their land pattas as the demarcations have been carried out in a haphazard manner. This has also led to great difficulties for the people in getting their land documents. No land documents mean that children cannot get admission in government schools as the land documents are required for identity proof. Moreover, land documents are needed to obtain caste certificates. No land documents mean that children from tribal communities cannot claim benefits provided to the ST community in educational institutions. Orissa gov. had recently issued a notification stating that land documents are not required to obtain caste certificates. But it is evident that things on the ground are not in consonance with the policies of the government. This issue should be taken up before the High Court by HRLN.

Another issue which needs urgent attention is that of distress sale which is rampant in Orissa during COVID-19 times. Families are forced to sell their produce in nominal rates as the government has not made any clear-cut policy concerning the sale of forest produce. Both the speakers suggested that Minimum Support Price for forest items should be looked at Gram Panchayat level wherein the sarpanch can give license to the Self-Help Groups which can be primary procurement agencies.

Mr. Balkrushana also pointed out that MSME's are promoting cluster development programmes which are encouraging the formation of NTAP clusters which would provide employment benefits to the local people.

The speakers also spoke about the issue of registration of migrant workers, which should be done at Gram Panchayat level as it would make the entire process easier and more efficient. However, they added that work must be provided to the workers in Orissa itself with same wages and benefits so that workers do not risk their lives going outside the state in search of work.

**Mr. Y. Giri**

Mr. Giri spoke about the Forest Rights Act and its implementation in Orissa.

Mr. Colin Gonsalves initiated the session by asking Mr. Giri about the progress of compliance of the commitments made by the state of Orissa in a recent Supreme Court hearing wherein several states including the state of Orissa had promised to redo the exercise under FRA and reconsider the rejection rate. Mr. Giri replied that in the concerned hearing the state of Orissa had filed an affidavit in which it admitted to about 1.5 Lakh rejections. However, they have changed their stance and in their most recent affidavit, the Orissa Govt. has claimed only 1% rejections. Even these 1% rejections are not free from controversy. The present rejection rates for Scheduled Tribes is approximately 7 thousand rejections and for Other Traditional Forest Dwellers (OTFD) it is around 9 thousand odd rejections. The sum total comes out to be somewhere around 16 thousand rejections but the Orissa Govt. affidavit (July 2019) mentions 14 thousand rejections.

After the verdict of the Hon'ble Supreme Court, the state of Orissa issued more than 20 circulars on rejected claims. The affidavit of the Orissa Govt. has noted that the Forest Rights Act does not mention evictions. Rejections happen due to non-compliance of rules set by the concerned authorities. This does not mean eviction. If a claim has been rejected, then the person affected can challenge the rejection claim in the Courts.

Mr. Giri gave special emphasis on the fact that Forests Rights Act is not a welfare legislation but a political legislation because it requires a strong political will to ensure its proper implementation. The legislation decentralises the power and empowers the Gram Sabhas. In the preamble of the Act, the Parliament admits its mistakes and acknowledges the historical injustice faced by the tribal communities. However, not much has been done to rectify the same since its enactment.

There are two categories of tribal people which exist. These are the Schedule Tribe community and the Other Traditional Forest Dwellers (excluding Schedule Tribes community). In the scheduling process under the British rule there were approximately 150 Aboriginal Tribes. However, post-independence, many communities belonging to this group have been excluded from the Schedule Tribes category.

Mandatory institutions known as Monitoring Committees have to be set up at the State, district, sub-district and Gram Sabha levels. However, at present no state level monitoring committee has been constituted. No Tribal Advisory Council has been appointed which provides the members for the State Level Monitoring Committees. The district and sub-district monitoring committees are not functional. Even if they are functional in some areas, their operations are dominated by the members of the Forest Department which makes the decision-making process cumbersome and problematic.

Mr. Giri further spoke on IFR/CFR land potential in Orissa. He pointed out that at present only 16% of the target has been achieved. Out of the 13-14 Lakh acres of land which can be given out, only 2% of the land has been given out till date.

The speed of conversion of Forest Villages to Revenue Villages is not at all upto the mark. Rather, Forest Villages are being lost due to encroachment by plantations. In effect, agricultural land is being lost to plantations without any pattas being distributed. A lot of these lands are inhabited by the members of the Scheduled Tribes which are left extremely vulnerable as they do not have the land pattas. PESA lands and agricultural lands are being brought under CAMPA plantations, leading to a lot of hardships for the people who are being displaced from their lands.

PESA Lands, common lands, as well as agricultural lands are illegally being notified as protected forest areas by the government and people are being displaced from these areas. This has led to large scale land acquisition by the government through illegal means. As this is being done after 2005, the FRI is not applicable over those lands.

Moreover, people are being dislocated from tiger reserves and protected lands. Adequate compensation is not being provided to the displaced people.

Such land encroachments have severe consequences for the women in these areas, as they are extremely vulnerable. They are being categorised as dependency categories. This affects the land title allotment procedure which is being carried out in a manner contrary to the customary laws. There is a need to take up women issues in FRI.

In the community forest areas, it is the Gram Sabha who can give Tendu leaves permits but DFO is hindering the process which is against the law. An RTI application also revealed that Tendu leaves permits are given by Gram Sabha and not the DFO. But the DFO stubbornly denies the charge and thus those who have the land allotment cannot sell the Tendu leaves.

### **Mr. Nakula Swain.**

Mr. Nakula is a Dalit leader in coastal Orissa and works on Dalit issues. He points out the major issues causing a lot of hardships for the Dalit Community in Orissa.

He pointed out that majority of the Dalits in coastal Orissa are landless and no process has been initiated to provide land to these families. At most, Dalits are being given inhabitable lands by the government to settle upon (such as land on mountain etc). This is a serious issue of human rights violations.

Moreover, Most of the Dalit families comprise of labourers who are dependent on employment under MGNREGA. However, during the past 4 months, most of the MGNREGA work has been carried out by machines, which is contrary to the very aims of MGNREGA.

The other cause of hardships for the Dalit farmers is the distress sale of vegetables produced. Lack of mobility and transport due to the lockdown have made it exceedingly difficult for the produce to reach the market leading to distress sale of the commodities.

## Session IV: Land Acquisition.

**Mr. Pravash Mishra;**

### Mr. Pravas Mishra

Mr. Mishra spoke on land allotment and FRI. He explained that in Orissa about 25% population are tribal people and live in 44% of geographic region divided into PESA and non-PESA district. 39% total geographic land is forest land of which 5% is degraded land. The available forest land is divided into Reserve Forests, Protected Forests and Revenue Forests.

He pointed out that some of the major challenges faced by the tribal region includes those related to developmental concerns. The tribal districts are always confronted with regional disparities and imbalance as they are backward areas and other areas are more developed than them. Infrastructural development is urgently needed tribal areas.

Every infrastructural development would consume land. Land acquisition is taking place due to coming of the MNCs, mining and plantation projects. However, the problem arises when a lot of unwanted disturbances are created during the process. These disturbances include harassment of the local people and ignoring the people's opinions before going ahead with the projects. Land acquisition leads to displacement of the people. This will raise rehabilitation issues. Transparency in land acquisition and payment of proper compensation is the need of the hour. In Orissa collectors are issuing land banks in the areas for development process in CAMPA plantations.

It must also be ensured that the environmental cost of setting up development projects are lesser than the benefits derived from it. Community consent in planning, implementation of the projects and other related processes is a must. Adherence to section 4 of FRI is important during the land acquiring process. This section mentions six points which must be taken into consideration when acquiring land. These are:

- a) CFR process must be completed.
- b) Expert committee will be set up by government to see coexistence between humans and wildlife to prevent human-wild life conflicts.
- c) Adequate rehabilitation process and packages for the affected people.
- d) Prior informed consent of Gram Sabhas.
- e) Relocation with proper land to be given to affected people.
- f) Acquired land cannot be used for other purposes.

He also spoke about the problems faced by Forest Villages in Thakrunda Block in Mayurbhanj district in Orissa. Some villages in this district have got CFR land recognition, and the conversion of land from FV to RV has reached the last stage. However, the main problem is that Forest Department may relocate the villages in other areas. Moreover, people with CFR recognition need convergence to get their livelihood. Yet, despite writing several letters to the district administration, no convergence activities have taken place. This area has excellent resources for fisheries activities and the Block level officers were requested to

incorporate fisheries and pond building activities under the MGNREGA scheme to create more employment opportunities especially during COVID times. However, the administration is still reluctant to initiate the same.

In Kolahandi there is deregulation of Tendu leaves. However, the authorities rejected the requests to incorporate a greater number of villages. Moreover, the DFO office issued letter stating that Tendu leaves can be sold only within Orissa but not outside. These issues will be challenged in Court.

Mr. Mishra also highlighted the problem of illegal land transfers happening from tribal to non-tribal communities. These transactions are happening by way of marriage. Sincere commitment backed by strong political will is required to resolve all these issues.

## **Session-5: Rights of the LGBTQIA+**

**Meera Parida**

### **Ms.Meera**

Ms. Meera raises the challenges faced by the members of the transgender community during the lockdown. She says that Indian philosophy and history contain several examples of members of transgender community becoming successful in life. This shows that if the society and polity in India allows it, then members of the transgender community can reach great heights. As per 2011 census nearly 4,78,000 transgenders live in India. However, it is only after 73 years of Independence that the members of the transgender community got rights and recognition as a “Third Gender.” The term “third gender” does not fully conform to the ideals of equality for she asks who are the first and second genders?

Moreover, even though the judgement was passed in 2014, it took six years to convert the judgement into an Act. However, this Act is extremely controversial and several PIL's have been filed against the Act.

Meera pointed out that the lockdown has led to severe psychological impact on the members of the transgender community. It has been extremely tough for new members to disclose their identities to their parents during the lockdown. Furthermore, many members of the transgender communities have lost their homes and income. They could neither go out to beg nor could they continue as sex-workers. Tenants were evicted by their landlords, and thus many members of the transgender community lost their accommodation.

Several welfare schemes exist for the Dalits and the landless, but none exist for the people belonging to the third gender who too face a lot of economic and social hardships. In some states a stipend of Rs. 2000/3000 or some amount of rice is being given to transgenders. But in Orissa there exists a lacuna in the system as the authorities ask for income certificate which will not be made without showing land documents. Many of them do not possess these land documents. Many transgenders have run away from their homes and have no connections

with their families or with their land. A PIL has been filed in the Orissa High Court in this regard. Meera requests HRLN to have a re-look at the PIL.

Another issue raised by Meera was regarding the abuses which were prevalent in the names of transgender people. Words such as *Kinnar*, *Chakka*, *Hijra etc.* are still used as abuses towards the transgender community, be it in social spaces as well as in social media. Such utterances are disheartening specially after the Hon'ble Supreme Court's judgement. She suggests that a petition should be filed seeking banning of such abusive words and seeking same rights, protections and privileges for the transgender community as those given to vulnerable women and children. This can be done by bringing transgender issues within the Women and Child Department of the government. Such a ground can be included in the prayer in the PIL filed by HRLN in the Orissa High Court regarding transgender issues.

### Question and Answer Round.

In this round, lawyers from HRLN spoke about the petitions they had filed in the High Court of Orissa and their progress.

- **Adv. Meenaz** informed the fellow panellists that:
  - A petition had been filed in the POSCO/Jindal Mega steel plant matter. She pointed out that in December 2019, only one *jan sunwai* (public hearing) was organised for three projects. Thus, the public hearing so conducted did not conform with the law. Moreover, the affected persons were not allowed to raise their concerns and a lot of other procedural requirements were flouted. A petition has been filed to challenge the public hearing.
  - The MoEF gave the forest clearance to the POSCO steel plant which has now been transferred to Jindal. This transfer will be challenged in Court.
  - The EAC and CRZ clearances given to these projects will also be challenged.
  - Jindal has won the auction of coal mine which will supply coal to their thermal power plant which they plan to set up. This needs to be challenged.
- **Adv. Omkar** informed the panellists that about 10 cases have been filed against the problems faced by migrant workers due to COVID-19 lockdown. 1 case has been filed regarding the Tendu Leaves issue.
- **Adv. Aditi Saxena** spoke about a tourism project underway in Shambooka beach of Puri district of Orissa. There have been gross violations of CRZ norms which have been denied while making the project proposal. The project is being made in a majority Non-Development Zone, a fact which has been totally ignored.

Approximately 5-6 villages have been completely displaced with no rehabilitation of the villagers. A PIL regarding this project is pending in the Orissa High Court.

### **Concluding Remarks.**

Ms. Sarita Barpanda concluded the session by further highlighting two important issues in Orissa which HRLN could work upon with the support of grassroots activists and movements. These were-

#### ➤ **The NTPC and MCL issue:**

**NTPC and MCL** are two important PSU's which are involved in mining activities in Orissa. NTPC operates in Jharsuguda district wherein it has not paid compensation to the people who have been displaced from their lands. These go against the content of the MoU signed between NTPC and the Sub-Collector for providing accommodation and jobs and other benefits to the people who have been displaced. In some cases, an extremely small amount of homestead land has been provided but jobs have not been provided at all.

MCL is involved in open coal mining wherein it follows the blasting method. This means that whenever the blasting starts, people in the nearby region have to rush out of their *kuccha* homes and hide in forests, only to find them dilapidated and destroyed on their return. They have been living in these regions for a long time without any relief.

As per the resettlement and rehabilitation policies in place, 10 decimal land is generally to be provided to the displaced people. If there is no engagement on the land, then Rs. 5Lakhs more is given to the displaced people. Those who do not want the land are given Rs. 5Lakh more. No employment however is provided to local people. However, in current times, the companies forcefully give money instead of land to the villagers without the latter having any say during the process.

#### ➤ **Child Care Centres.**

Mr. Loknath raised concerns over the conditions of the children in child care centres and orphanages during the COVID-19 Lockdown. Approximately 50-60 Thousand children across the country are under the care of these centres and orphanages where they are given training to become house workers. However, no one really follows what happens to these children once they move out of these institutions.

Most of the caregivers from these institutions are placed in individual homes. However, no one really knows what happened to these caregivers during the COVID-19 Lockdown. They are an invisible section of the society for whom no data seems to be available.

The Juvenile Justice Act talks of after-care support of Rs. 2000 per month for 3 years for these children which must be provided by the government. However, in reality, no such support is actually given to these children.

The following points must be focussed upon when dealing with this issue:

- How is the monitoring of the children done once they leave the centres?
- How are they supported once they leave the institution?
- What happens to these children when they are removed by the families who employed them as caregivers especially during the COVID-19 Lockdown?
- What are the steps taken for reintegration of these children back into the society?