



**DISTRICT CONSULTATION MEETING ON
TRAINING, COACHING AND MENTORING
OF PARALEGALS OF SANTHAL PARGANA
DEVELOPMENT CLUSTER
(SPDC), PRADAN AND WOMENS JUSTICE
MEETING**

Date: 27th September 2020

Venue: Katoria, Dumka, Jharkhand Google meet link

Organized by,



Human Rights Law Network



Agenda for the meeting on Training, Coaching and Mentoring of paralegal of SDPC

Venue: Google meet link in Dumka, Jharkhand

AGENDA:

Session1: Law Relating to Women

Session2: FIR, How to lodge FIR, Court complaint etc

Session3: victim compensation, Bail, anticipatory bail, how to write letter to SP, DGP etc Public Interest Litigation, writ in High Court

OBJECTIVE OF THE MEETING: In Santhal Pargana Development Cluster (SPDC), PRADAN has been working in 4 districts of two states directly in the grassroots. Godda, Dumka, Jamui, and Banka are the direct engagement districts of PRADAN. We have been working in this SPDC for more than the last two decades in livelihood and other development indicators. Promotion of CBOs and their nurturing is the fundamental process to address any developmental need and is our basic approach to reach to the community. There are several CBOs promoted, and to some extent, they have been bringing impactful changes in their and villagers life. PRADAN has been only playing the facilitating role to help these institutions to achieve their collective aspiration for their survival.

The Session was conducted by Advocate Sonal Tiwari, Advocate Mrinalini Adela Tete, and Advocate Rashmi Lal.

Why legal awareness and aids are required

We need to update the context of our women-led CBOs to extend our services for this region. Women's position in this region is most disadvantaged in the society across tribes, non-tribes, and minorities irrespective of their family economic condition. Women are engaged in multiple

works in households, livelihoods activities, and child care, but hardly have any say in the decision-making process in the family, village, and society. Women say men being the earning members have more say in the family, and they are household heads and make final decisions. If women earn, then also hardly spend any money for themselves and men decide where to expend it. The name and relation generally identify them with their children, husband, and father-in-law. The self-view of women about themselves is low, and they have accepted the norms in the society that women are less equal. The degree of women's freedom, ability to make her own choices, mobility, etc. varies among different castes like Ghatwar, Santhals, Paharia, Yadav, and Muslim. Tribal women have greater freedom, versatility, and ability to make choices. They choose their life partners and get into physical intimacy with mutual consent even before marriage. Male partners of Santhal women consult their spouse in the decision-making process and allow them to visit the market, banks, Panchayat, Block or for wage-earning in and around the village, which is not permitted in Yadav, Muslim, and other general castes. In the non-Tribal family, marriage is the only accepted institution for staying with a partner. Non-tribal women mostly Yadav, koiry, Muslim, and Ghatwar remain within their house or work in their agriculture fields within the village. But they have the least say in the decision-making process in the family. The women from the non-tribal community usually have food at the end, after feeding to all family members. They typically do not migrate, unlike tribal women. Women at large have limited control over their bodies, on dress selection, don't have control of their earnings, and are usually less paid as wage labor compared to males in the society. Women don't have assets in their names like land, houses, or any other assets. They are not aware of their legal rights, assurances, and related reservation. Hardly they assault against their violence and merely go to the police station. Child marriage is prominent in the area and due to which girls become mothers at an early age. During the pregnancy and even after one week of delivery, women have to work in the household, which adds to their drudgery further and severely affects health.

Women's mobility is much higher, in the case of Santhal and Paharia (PVTG) community, as compared to the non-tribal community like Yadav, Ghatwal sub-caste. Women do not participate in Gram Sabha meetings, except SHGs women recently started raising their issues in such a forum. Mostly both tribal and non-tribal women are not able to influence their society and cannot

challenge the social norms which are oppressive and unjust. Women neither are given space to participate in the village development process and to express their issues and problems nor are their views heard. Women's self-view and their aspiration are low because of their long experiences of living in a patriarchal society, little exposure, low literacy, and following its structures and its norms without challenging it.

The expectation of our engagement

Here are the few steps that can be jointly explored to reach the CBOs and their legal needs.

- Legal awareness of the BLFs/CLFs (Block level federation/Cluster level federation) about the system of law exists in their surroundings how women can collectively know about requirements, their system, and access it.
- Awareness on kind of laws are prevails considering their contextual needs explained above, and collectively the CBOs can work on it
- Grooming the women-led collectives through a different system to assist their members around legal aids.

SESSION 1:

The session started with the introduction of the speakers, wherein the speaker greeted the participants and introduced himself as an activist of HRLN, Jharkhand. He spoke of the work done by HRLN and its network across the country and across the globe, the objectives and functioning of HRLN as a pro-bono legal support organization. The objective of the introduction was also for the participants to understand and get a grasp of the current scenario and how HRLN, can help them with their various issues. Works done by the Advocates of HRLN was also explained to all the participants.

Advocate Sonal Tiwari

The speaker introduced himself as an advocate of HRLN, practicing in the Jharkhand High Court, he discussed about the working of HRLN, its aims and objectives. He talked about how

HRLN has always organized Workshop on Human Rights and Law, Women and Law, Child and Law programme. HRLN has always supported victims through litigation and preparing reports which have been used by the standing committee of the Parliament for drafting of laws. He also discussed about HRLN taking up the cause of the women, children and mostly the deprived sections of the society on a pro bono basis. And the network of HRLN in Jharkhand, which covers almost all the districts, having advocates in almost all the districts unlike other states.

Advocate Mrinalini Adela Tete

The speaker introduced herself as an advocate of HRLN, she greeted the participants, and talking about the working of HRLN, she gave a brief overview of the two day training, coaching and mentoring of the paralegals. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 is a legislation that regulates land acquisition and provides laid down rules for granting compensation, rehabilitation and resettlement to the affected persons in India. The Act has provisions to provide fair compensation to those whose land is taken away, brings transparency to the process of acquisition of land to set up factories or buildings, infrastructural projects and assures rehabilitation of those affected. The Act will replace the Land Acquisition Act, 1894, a nearly 120-year-old law enacted during British rule.

Aims and objectives:

The aims and objectives of the Act include:

- To ensure, in consultation with institutions of local self-government and Gram Sabhas a humane, participative, informed and transparent process for land acquisition for industrialization, development of essential infrastructural facilities and urbanization with the least disturbance to the owners of the land and other affected families
- Provide just and fair compensation to the affected families whose land has been acquired or are affected by such acquisition

- Make adequate provisions for such affected persons for their rehabilitation and resettlement
- Purpose and scope:

The Act aims to establish the law on land acquisition, as well as the rehabilitation and resettlement of those directly affected by the land acquisition in India. The scope of the Act includes all land acquisition whether it is done by the Central Government of India, or any State Government of India, except the state of Jammu & Kashmir.

The Act is applicable when:

- Government acquires land for its own use, hold and control, including land for Public sector undertakings.
- Government acquires land with the ultimate purpose to transfer it for the use of private companies for stated public purpose. The purpose of LARR 2013 includes public-private-partnership projects, but excludes land acquired for state or national highway projects.
- Government acquires land for immediate and declared use by private companies for public purpose.

The provisions of the Act does not apply to acquisitions under 16 existing legislations including the Special Economic Zones Act, 2005, the Atomic Energy Act, 1962, the Railways Act, 1989, etc.

Advocate Rasmi Lal

The speaker introduced herself as an advocate of HRLN, practicing in the Jharkhand High Court. In May 2016, the Adani Group, led by Gautam Adani, one of India's [richest](#) and most powerful men, asked the Jharkhand government to acquire close to 2,000 acres of land – 95 times larger than Mumbai's downtown Nariman Point business district – in 10 Godda villages to build a 1,600-megawatt power plant fired by imported coal. The Adani Group will sell the power generated in Godda to Bangladesh.

In March 2017, the government [said](#) it would acquire 917 acres in six villages: Mali, Motia, Gangta, Patwa, Sondiha and Gaighat. So far, the government has acquired over 500 acres of private land in four – Mali, Motia, Gangta and Patwa – home to the 16 petitioners.

The Jharkhand government has undercut several safeguards in a landmark new law, the [Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act](#) (or Land Acquisition Act of 2013), to acquire land from unwilling villagers for the Adani Group. The legal safeguards undermined relate to “public purpose” reasoning, social impact assessment, consent and compensation.

The safeguards were introduced to end India’s century-old legacy of violent land acquisition, replacing it with a “humane, transparent and participative” process.

On August 31, 2018, as local police watched, women farmers from the Santal tribe fell at the feet of Adani personnel, begging them to not seize their land. *IndiaSpend* reported how criminal cases were filed against some Adivasi and Dalit farmers who protested the takeover of their ancestral farms.

The 16 villagers who have now moved the High Court are from Santal Adivasi, Dalit and other backward caste communities and include retired teachers, farmers, sharecroppers and agricultural workers. The petitioners said that they and other affected villagers had written “several letters to different authorities highlighting the illegalities in acquisition of land and protesting against the acquisition of land, but not a single response/reply was received.” Aggrieved, they were approaching the court.

“In their petition, the villagers said they want the court to strike down the land acquisition on several grounds, including:

- The state government is acquiring land from farmers for the Adani Group, calling it “a public purpose” project, but this categorisation is flawed. Since the group will sell the entire power generated in Godda to Bangladesh, the land acquisition is for the private gain of the Adani Group.

- The Social Impact Assessment, meant to assess the costs and benefits of land acquisition was “fundamentally flawed”. These errors include underreporting the number of affected people, “wrongly claiming” that there will be no displacement, not analysing costs to the villagers, such as the loss of land and farming livelihoods and community assets in the villages, including grazing grounds and water bodies, and excluding the views of villagers who have raised critical questions about the land acquisition project. While the Social Impact Assessment is meant to be carried out by an independent agency, a Mumbai-based consulting firm, [AFC India Limited](#) which was given this task, did not undertake detailed site visits and meetings with affected people to prepare the Social Impact Assessment, and acted in a manner that seemed to support the company.
- The public hearings held in 2016 for the project were not “free and fair”. Several villagers were [barred](#) from attending it and [lathi-charged](#) by the police.
- Documents and notifications around the various acquisition processes and safeguards have not been publicly disclosed, and made available to affected people, as the government is required to do under the law.
- The consent of 80% of the landholders has not been taken, as it should have under the Land Acquisition Act. The petition annexes representations by 400 landowners opposing the land acquisition; these representations were submitted to the state government and the Jharkhand Governor in 2017.
- The state government has acquired community land of the villages for the Adani Group “without the consent” of the *gram sabha*.
- The acquisition “violates” safeguards in the Santal Parghana Tenancy Act – a 1949 law, intended [to prevent Adivasi dispossession](#) by placing several restrictions on the transfer of land from farmers.

Advocate Sonal Tiwari

The speaker greeted the participants, and explained to them that how there are two things that they need to keep in mind before initiating a criminal proceeding anywhere in the world. Explaining to the participants as to how to report such cases online, as most people, who want to register a complaint, dread entering a police station since lodging a complaint seems like an arduous task or there is a constant fear that the authorities might not be cooperative. However, that shouldn't stop anybody from taking a strict action against a crime. As India is moving towards digitalisation, how to file an online FIR/police report or complaint has become one of the most searched queries.

A complaint simply means an allegation which is filed in the form of a registered report against any person accusing him/her of committing an offence which needs to be presented in front of the magistrate. It can either be orally or in writing, however, it does not include an FIR. Secondly, FIR (First Information Report) is the report which is prepared by a police officer in furtherance of receiving any information in regards to a commission of any cognizable offence. The procedure for filing an FIR is stated under the Section 154 of Criminal Procedure Code, 1973. Moreover, usually, a person needs to visit the police station in order to file a complaint or an FIR. That said, when it comes to e-FIR, it can be filed only for cognizable offences. In these cases, the police can even make the arrest without the need of a court order. In the case of non-cognisable offences such as assault, stalking, cheating, etc, only a complaint can be filed online. After the complaint is filed, it can be later escalated into an FIR after seeking permission from the Magistrate.

The speaker explained to the participants, how to file a complaint using the online format. First they have to visit the online website, <https://jofs.jhpolice.gov.in/open.php> of the Government of Jharkhand, where after, the page opens and displays, a fresh form for registering a complaint, which only asks for the basic information of the complainant, id proof, to select the type of the complaint, the crime committed, the site also provides for the option of uploading a scanned copy of the complaint, which bears the signature or the thumb impression of the complainant. If the informant has filled in all the details and submitted, he will then receive a copy of the FIR via an email on the registered email address, and also a text message in the provided mobile number. And even after that if the Police does not register the same, then, one can approach the concerned

SP, referring the text message that was sent to their mobile number, to get the concerned Police Station to register the FIR.

That the speaker further discussed the Lalita Kumari case, in which the Supreme Court had held that in cases of cognizable offences, the concerned Police Station has to register the FIR. And the speaker further explained that if all fails, then the aggrieved party can also file a complaint case, or a Writ in the concerned High Court.

The speaker further discussed about the Right to Information Act 2005 which mandates timely response to citizen requests for government information. He explained to the participants that it is an initiative taken by the Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions to provide a RTI Portal Gateway to the citizens for quick search of information on the details of first Appellate Authorities, PIOs etc. amongst others, besides access to RTI related information / disclosures published on the web by various Public Authorities under the government of India as well as the State Governments. He also discussed as to how to file an RTI through online process and through offline process. In which, one only has to visit the official website <https://rtionline.gov.in/>, one can proceed with the application, which requires him to click on the submit request tab, and then proceed with the guidelines of the RTI, and after understanding that, one can proceed with his application, by selecting the department from which he needs information, then giving his details, and describing the request for RTI. And also if the person belongs to BPL, then he has to annex a document in that support. Otherwise the person has to pay Rs. 10, through online transaction. Thereafter, a reference number is issued against the request, which can be kept for future use.

The speaker further discussed about the various commissions set up by the government, like human rights commission, women commission, disability commission, pollution control commission, which are there to address the matter, but they do not solve the matter, and try to settle the matter between the parties, it is more like a mediation. But the order given by such commissions is not final and one can approach the concerned High Court or the Supreme Court for justice. The representation made through letters, to these commissions can be annexed in the petition filed before the Hon'ble High court or the Supreme Court. He also explained, how a single letter to the Supreme Court can also be treated as a PIL, citing the incident of 1990, when



the condition of RINPAS was very bad, and a letter was sent to the Justice, who treated the matter as a PIL, because of which many institution reaped the benefit of the same.

Vote of Thanks: By Mr. Sonal Tiwary