

**Date: 22<sup>nd</sup> September, 2019**

**Venue: Chamdi Pahad, Taljhari, Sahibganj**

**Organized by,**



**Human Rights Law Network**

**Agenda for District Meeting on Forest Rights and Law**

**Date: 22/09/2019**

**Venue: Chamdi Pahad, Taljhari, Sahibganj**

**Agenda**

<b>Time</b>	<b>Session</b>	<b>Resource Person</b>
	Registration of Participants	
11:00 AM to 11:15 AM	Welcome Address & Introduction to Human Rights Law Network	Adv Sonal Tiwary Advocate HRLN, JHC
11:15 AM 12:45 AM	Forest Rights Act	Adv Sonal Tiwary
12:45 AM to 1:00 PM	Open House Discussion	Brihaspati, Activist Sameer Activist
1:00PM to 2PM	Refreshment and Issues on Ration card	Sonal Tiwary Gram Pradhan
02:00 PM to 03:30 PM	Right to Education Protection of Children from Sexual Offences Act, 2012	Sams Tabrez, Advocate HRLN Sahibganj LalitSwadeshi, Advocate Sahibganj
03:30 PM to 03:45 PM	Open House Discussion	
03:45 PM to 04:15 PM	Strategy for next meeting	Adv Sonal Tiwary Sams Tabrez
<b>Vote of Thanks</b>		

HRLN, Ranchi in order to discuss about the Human Rights with indigeneous population of state including creating awareness about the rights of women and children and providing free legal aid as well as to suggest the Government in order to improve the conditions of the poor people has always orgained Workshop on Forest Rights and Human Rights Law programme with the people of different communities for Human Rights and stakeholders in different District. HRLN has always supported victims through litigation and preparing reports which have been used by standing committee of the Parliament for drafting of laws. HRLN organized one day Meeting on Forest Rights and Law in the Sahibganj District in Chamdi Pahar, Taljari Sahibganj.

**Number of persons attended: 81( Childrens were also part but their signatures were not taken)**

**Number of women: 43**

## **INTRODUCTION**

The first seats were occupied by Lalit Swadeshi, Advocate Sahibganj, , Helena Murmu, Local Activist Shikha Paharin , Local activist, Advocate Sams Tabrez HRLN, and Sonal Tiwary, HRLN Ranchi.

The workshop started with a briefing by Sonal Tiwary , HRLN Ranchi. In this, introduction and objectives were addressed to the student present in the event. Welcome speech was given by Sonal Tiwary, HRLN Ranchi Sonal Tiwary explained about the work of HRLN. Explained about the success stories of Human Rights Law Network, Ranchi.

## Session 1:

<b>Forest Rights Act</b>	<b>Adv Sonal Tiwary</b> Brihaspati, Activist Sameer Activist
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Greeted and welcomed the participants. He interacted with everyone by asking few basic questions to the delegate so as to have a discussion. In 2006, the UPA government passed the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (the Forest Rights Act, or FRA, for short). The Act provides for recognizing thirteen different rights that are central to the lives and livelihoods of tribals and other traditional forest dwellers across the country. These rights include rights to land under occupation as well as customary land, ownership of minor forest produce, rights to water bodies, grazing areas, habitat of Primitive Tribal Groups (PTGs), conversion of all types of forest villages/settlements to revenue villages, the right and power to protect, conserve and manage community forest resources, etc. All of these rights had been illegally and unjustly denied during the classification of lands as government forests (both before and after independence). The FRA sought to address the shortcomings of previous rights recognition efforts, particularly

the guidelines issued by the Ministry of Environment and Forests (MoEF) in September 1990 and afterwards. None of these efforts succeeded<sup>1</sup>, as they relied on the Forest Department for verification, covered only land rights, and lacked statutory force (making them subject to requirements of forest clearance, compensatory afforestation, etc.). The first key problem that is notable is the fact that a number of the states and Union Territories are yet to commence serious implementation of FRA. Several major States – including Goa, Tamil Nadu, Jharkhand, Himachal Pradesh, Uttarakhand, Karnataka etc. - have begun the process on paper but are proceeding very slowly. In addition, regardless of the level at which the Gram Sabhas have been constituted, they have frequently been completely by passed except for obtaining signatures of the Panchayat President and/or a few Forest Rights Committee members. This has been a major violation of the letter and spirit of the law, as the process of recognition was meant to be an empowering, participatory democratic process. It was not meant to be controlled by forest and revenue officials.

### **Recommendations Relating to the Forest Rights Act**

These recommendations propose a set of actions that can be taken at the Central level to remedy the failures that have taken place in implementation. It should first be noted in this context that:

- The Ministry enjoys sweeping powers under section 12 of the Act to issue binding directions to any authority. These directions should therefore be issued under section 12.
- All directions should be issued to the Chief Secretary of the State concerned for action. The Chief Secretary should ensure that the State Level Monitoring Committee (SLMC) reports, every six months, on the implementation of the law, including the directions given by the Ministry (such as those suggested here). The SLMCs have largely been inactive and it is necessary to ensure that they play their role as the bridge between the Central nodal agency and the State implementing authorities. The SLMCs should therefore also be directed to meet once a month to review the implementation of these directives and of the Act. The Chief Secretary in his capacity as chair of the SLMC should be directed to take responsibility for these meetings and for the reports to the Ministry.

- The Ministry should cease simply monitoring the number of titles issued and instead start monitoring the rights claiming process in a step-wise fashion, and in particular reporting the following steps, which in turn the State Level Monitoring Committees should be asked to report on:
  - Awareness generation about the content of the Act and Rules among the public, PRI & other elected representatives and field staff & officials
  - Number of gram sabhas at the appropriate village level with the required quorum held and Forest Rights Committees elected
  - Training of FRC members about their functions and procedures to be followed
  - Number of claims received under various sections of the Act and status of these claims
  - In the case of land rights, area of land claimed and area actually recognised
  - Number of claims approved, rejected or remanded back by Sub Divisional and District Level Committees, with a breakdown of categories of reasons and whether rejected 20 claimants were informed about the same
  - Number of rights recognised by each type of right



## Session 2:

**Resource person: Sams Tabrez, HRLN Lalit Swadeshi,  
Advocate Sahibganj**

## **Topic: Right to education Protection of Children from Sexual Offences Act, 2012**

Greeted and welcomed the participants. Since there is a power plant in the place of venue. The Right of Children to Free and Compulsory Education Act, 2009, popularly known as the Right to Education Act (RTE Act), is a Central legislation that details the aspects of the right of children of age six to fourteen years to free and compulsory elementary education (Classes I to VIII). This is now a Fundamental Right under India's Constitution (Article 21A).

### **Right to free & compulsory education**

- No school fees, capitation fees, charges or expenses are to be paid by a child to get elementary education.
- The child or his parents are not to be subjected to any screening procedure for admission to school.
- When a child of above six years has not been admitted to any school or, if admitted, is unable to continue studies, that child shall be admitted to a class appropriate to his age. He will be also given special training (minimum of 3 months; maximum 2 years) to bring him at par with his class. He can continue beyond 14 years in order to complete receiving elementary education.



- If a school does not provide facility to complete elementary education then a child of that school can take a transfer to any other government (govt.) or government-aided school.
- Each child is also entitled to free text books, writing material and uniform.

The appropriate govt. or the local authority (meaning a municipal corporation or municipal council or equivalent body in urban areas or a Panchayati Raj Institution – PRI – in rural areas) has to provide i. a school within 1 km walking distance for children in classes I to V and ii. within 3 kms for those in classes VI to VIII. iii. In densely populated areas, depending on the number of children between the ages of 6 to 12, more than one school may be necessary. iv. For remote areas, where distances are more than the prescribed kms, facility should be provided for free transportation or residence as required.

- Such a school is termed a ‘neighbourhood school’.
- The appropriate govt. or local authority has to undertake school mapping to determine the locations of neighborhood schools.
- The location of each school has to be made known to the community it is meant to serve.
- All private schools (those that do not seek any govt. grants to impart education) in a neighbourhood are required to enroll 25% students from the weaker and disadvantaged sections of society and provide free education to them. These schools can then claim reimbursement from the govt. for the expenditure incurred, provided that, per child expenditure does not exceed the amount a govt. school spends to educate a child.



The very inadequacy of Indian Penal Code and absence of any stringent legislation for effectively addressing and tackling heinous crimes such as sexual exploitation and sexual abuse of children birthed the commencement of POCSO ACT as the very intention of Government establishments was to protect the children from offences of sexual assault, sexual harassment and pornography and to facilitate adequate legal machinery by establishing special courts for trial of such offences and matters incidental connected with child sexual abuse crimes. This was in due compliance of Article 15 of Constitution of India which mandates the states to protect the children of this nation and in lieu of United Nations Conventions on the Rights of the Child which prescribes the set of standards to be followed by state parties in securing the best interest of the child.

#### Commencement of POCSO ACT, 2012

The Protection of Children from Sexual Offences Act, 2012 received the President's assent on 19th June 2012 and was notified in the Gazette of India on 20th June, 2012. The preamble of POCSO Act emphasizes that child protection legislation like POSCA is necessary for proper development of child so that his or her right to privacy and confidentiality will be protected and respected by every person by all means and through all stages of judicial process involving a child.



POCSO ACT makes it imperative that child protection is given paramount importance to ensure holistic development of child's physical, emotional, intellectual and social faculties.

POCSO ACT mandates the state parties to the Convention on the Rights of the Child are required to undertake all appropriate national, bilateral and multilateral measures to prevent –

- The inducement or coercion of a child to engage in any unlawful sexual activity;
- The exploitative use of children in prostitution or other unlawful sexual practices;
- The exploitative use of children in pornographic performances and materials;

Important features of The POCSO Act, 2012

1. POCSO ACT defines a child as a person under the age of 18 year. It encompasses the biological age of the child and remains silent on the mental age considerations.
2. It recognizes all forms of penetration other than penile-vaginal penetration and criminalizes acts of immodesty against children too.
3. With respect to pornography, this act criminalizes even watching or collecting pornographic content involving children under Sec 15 of the Act and shall be punished with imprisonment of either description which may extend to three years or with fine or both.
4. Under Sec 20 of the act under chapter V makes it obligatory for media personnel's and personnel employed by hotel or lodge or hospital or club or studio or photographic facilities, by whatever name called, irrespective of the number of persons employed therein, shall, on

coming across any material or object which is sexually exploitative of the child including pornographic, sexually-related or making obscene representation of a child or children) through the use of any medium, shall provide such information to the Special Juvenile Police Unit, or to the local police so that such sex abuse offenders' can be tracked down by police immediately.

5. However, This Act also has been criticized as its provisions seem to criminalize consensual sexual intercourse between two people below the age of 18 and take the personal liberty of adolescents to indulge in consensual sex and youngsters who indulge in sexual activities will be prone to further harassment from family members, police and society. This new legislation has reignited the debate over the validity of rationale behind age consent laws and the harmfulness of adolescent.

#### **STRATEGY:**

1. Writ against Forest Dep[artment for plantation of trees in Raiyati Lands.
2. Writ for non availability of drinking water.
3. Writ for no electricity.
4. Writ against non availability of Awas Yojna.
5. Few cases of forest rights act

#### **Vote of Thanks:**

**By Sams Tabrez, HRLN Sahibganj. He thanked everyone for their patience hearing and having an informative discussion.**

