

Webinar

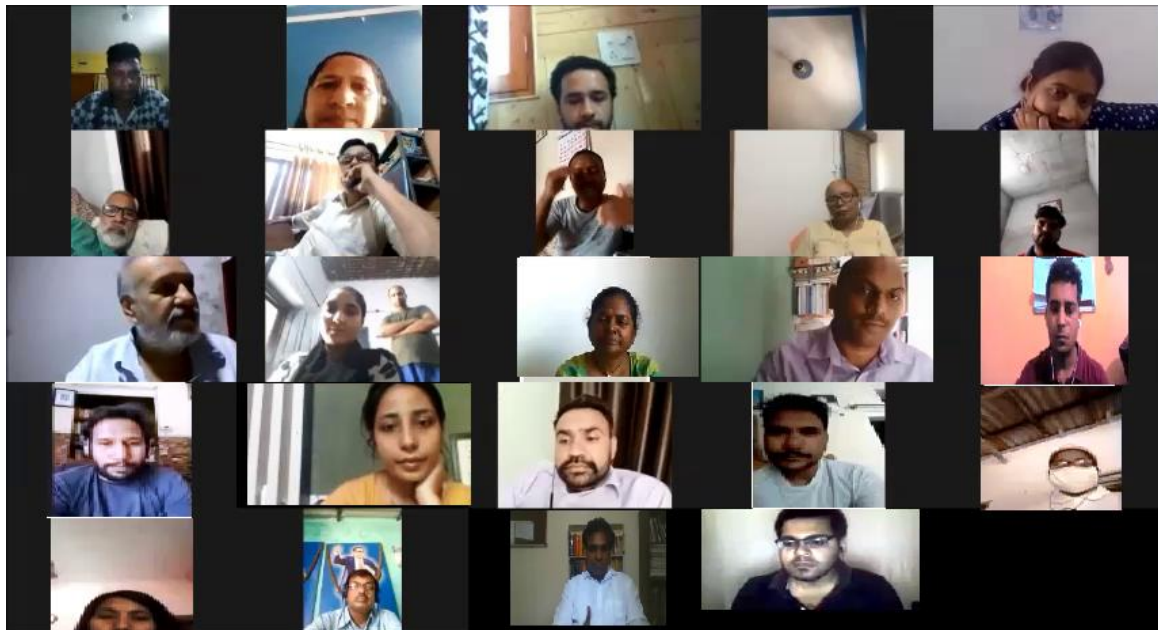
On

Dalit Land Rights: 'The Punjab Village Common Land
(Regulation) Act, 1961'

Provisions, Challenges & Strategy:

Date: 25.05.2020

11.00 AM to 2.00 PM



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By

Human Rights Law Network, Chandigarh

Timing	Speaker	Topic
11.00 to 11.10am	Adv. Veena Kumari, HRLN, Chandigarh	Welcome
11.10 to 11.30am	Mr. Jai Singh, DDVA	Provisions & Challenges
11.30 to 12.00pm	Rajesh Kumar, Advocate & Dalit Rights Activist	Strategies
12.00 to 12.20pm	Davinder Singh, CSCE	Status of Implementation
12.20 to 2.00pm		Open House Discussion
2.00pm		Thanks and Closing

REPORT

Background:

In Punjab, upper castes, mostly Jat Sikhs, dominate the farming landscape. Only 3.5% of private farm land belongs to Dalits who make up 32% of the population. Punjab has the maximum proportion (5.28%) of big farmers owning more than 10 hectares of land among all non-mountainous states of India. The national average is 0.57%, according to the Agriculture Census 2015-16. Land consolidation is expected to grow further as modern, capital-intensive farming in the state benefits big farmers due to the economies of scale. In the past, the only major land rights movement in Punjab was the Muzara Movement (1930-53), in which tenant farmers demanded the abolition of *biswedari*--a system in which landlords owned vast swathes of land--in the princely state of Patiala and East Punjab States' Union (PEPSU). The agitation had led to violence against the protesting tenant farmers. The Muzara Movement, however, did not include Dalits.

In 1961, the state passed the Punjab Village Common Lands (Regulation) Act, reserving 33% of agricultural village common land for SCs, who could get an annual lease through bidding (rules under the statute were framed in 1964). The implementation, however, was indifferent. Upper-caste farmers continued to cultivate this land by sponsoring proxy candidates from the reserved category, depriving the community of this right. Initially Dalits were also not vocal enough to challenge this arrangement. Subsequently educated youth and women became most willing to challenge the status quo. They realized that owning a piece of land would bring prestige and cut through the dominance of the upper castes.

Presently Dalits are waging battles to lay claim to promised lands across India, as India spend reported on June 7, 2019. Across 13 Indian states, there were 31 conflicts involving 92,000 Dalits fighting to claim land, according to land conflict watch, a network of researchers that maps and collects data on land conflicts in India.

Assertion of land rights often leads to grave violence in Punjab where popular culture glamorizes gun toting to gain possession of land.

With the widespread use of proxies of Jat Sikh farmers, Dalits have disrupted auctions in several villages over the last 10 years, threatening proxy candidates and even stopping influential farmers from tilting the reserved lands.

Such acts have often resulted in violent repercussions as in Jhaloor village, where 72-year-old Gurdev Kaur was killed and several other protesters grievously injured in a brutal attack by a group of big farmers and their supporters on October 5, 2016. The attackers are currently facing trial in court.

It is also important to note that sexual exploitation is one of the most critical threats for women laborers, most of them Dalits, found a recent study, 'Socio Economic Conditions and Political Participation of Rural Women Labourers in Punjab'. More than 70% respondents kept quiet when asked about their experiences related to sexual exploitation. The reality can be inferred from this. The social stigma related to the issue forces many to keep mum.

In the above background it was desired to have a webinar on the land rights of Dalits, to discuss about the legal provisions, implementation status and to come with strategy after discussing with stake holders across the country.

WELCOME ADDRESS

Moderator: Advocate Veena Kumari, HRLN, Chandigarh.

The welcome was addressed by Adv. Veena Kumari on behalf of HRLN and the collaborator organizations. She shared with the house that elimination of landlessness among Dalits can boost the national economy and resolve the problem of unemployment. She further added that the Dalits have been subjected to various forms of deprivation historically. In many places Dalit are still subjected to the criminal practice of untouchability and other atrocities. Dalits also face various forms of deprivation and inequality with respect to education, health and access to different kinds of jobs. Access to land in an agriculture based rural economy is important because land is a primary means and instrument of production. The social distribution of land in a village economy determines the economic position and power relations between different social groups in the village. The issue pertaining to land rights to the dalits is not of profit by also of dignity of the whole family especially of women who being from landless family are subject to various kind of sexual exploitation while working in the fields of dominant land holders. She gave a briefing about the agenda for the day subject to addition or modification if asked by the house and also introduced the experts who were to address and to satisfy the queries raised by the house.

SPEAKER: MR.JAI SINGH, THE CHIEF FUNCTIONARY OF THE DALIT DASTAN VIRODHI ANDOLAN

Mr.Jai Singh is the Chief Functionary of the Dalit Dastan Virodhi Andolan an NGO working for decades in the field of bonded labour and on the rights of Dalits including land rights. He observed that the land ownership depicts the status of the

family especially in rural background and all kinds of human rights like social, financial, economical and cultural flow out of that.

He added that even the landless person who is conversant with the whole technique of cultivation tilts on the land of the dominant caste landlord but the main portion of the proceeds go to the owner of the landlord in whose fields he works and the worker gets only mure for survival. He shared that during independence struggle people from Scheduled caste and Tribes also joined the independence movement having a dream that independence would give them a better life and land rights but it did not happen. He mentioned about “the Trilok Singh Committee” which was constituted for allotment of land and the land was allotted to all big guns which included big landlords, police officials and administrative and the remaining land was given to the migrants who have migrated from the west Punjab now Pakistan and the Dalits were totally ignored and remained landless as they were before independence and reduced to work in the fields of the dominants and to survive on their mercy. Land had gone to the big farmers in the Punjab and in other parts of the country as well.

He mentioned report of Harchand Singh Committee which shows that the land was not allotted to the Dalits. But the said report is lying in the library of Vidhan Sabha collecting dust.

He mentioned about the next phase pertaining to land reformers i.e. the consolidation of land. In this phase the chunk of the lands which was scattered at different places of the farmers were consolidated for the benefit of the farmers and to make easy for them to cultivate. In this process a big chunk of land became surplus and vested to the government. During the same period the Punjab was divided into two parts i.e. Punjab and Haryana in 1966. However the surplus land

with the state of Punjab measured around 1,57,000 acre. This is known as common land or Shamlat land in local language. The Common land Act, 1961 provides one third share to the Scheduled Caste on the basis of their number in total population. This common land can be used for the purpose of Housing to the homeless, for the purpose of development like building of schools, hospitals, libraries etc. and to generate income of panchayats for giving on lease by auction. In the auction the scheduled caste according to the Act are entitled for one third of land and this auction are reserved for scheduled caste only and the general people cannot participate in this auction. Further he added that for the purpose of environment and to maintain the waste of the village some portion of the land is separated and given to general residents on nominal charges but free of cost to the people from Scheduled Caste. While discussing housing rights to the economical poor he added that in 2001 there were 90 thousand homeless in Punjab which became 6 lakh 90 thousand in 2007 and we can imagine the present scenario of homelessness.

Mr. Jai Singh informed the house that every political party promises to give plots to the weaker section in their manifesto but it never happens whereas on the basis of their economical status the poor are eligible for free allotment of plot for their residence. He added that though around 53 thousands acre cultivable land is reserved for the Scheduled Caste in Punjab but they are discouraged from participating in the auction by various methods to come forward to participate in the auction by the dominants of the village. He also informed about the limit of auction that upto 599 acre of land can be auctioned on lease by the village panchayat, 599 to 1000 by the Zila Parishad and more than 1000 acres by the State. He also informed about one landmark judgment which provides encroachment on common land can be removed even by demolishing if there is a construction of crores on it.

Mr. Jai Singh in the context of present regime mentioned that every day it is talked to bring back the black money to the country from abroad but it is never talked to distribute the black land with the big land holders. He explained the provisions under Section 5 and section 15(2) of the Act along with the Rule 6 of the Rules which provides the share of the Dalits in common land and the procedure for the same. Mr. Jai Singh concluded his address by handing over the mike to the next speaker and to take the queries in the end.

SPEAKER: ADVOCATE RAJESH KUMAR

Advocate Rajesh Kumar is working on the issue of land rights of the Scheduled Caste for the last more than a decade. He has been an activist with the association of Student's Rights. He was to share his views on the implementing strategy pertaining to the land right in the context of The Common Land Act, 1961 with rules of 1964. He shared with the house that we have the Act with us which provides one third of the government land to the scheduled caste community for the last more than 60 years but due to various subjective and objective reasons its implementation is almost nil. He further added that our share in the common land to get on lease has been fixed on the basis of our percentage in the total population of the State. He shared since Mr. Jai Singh had spoken already at length about the provisions of the Act in the historical perspective and the issue is not limited only to the State of Punjab but the status of implementation is the same across the country though the legislations could be named differently.

Adv. Rajesh pointed out that the first issue pertains to subletting or proxy auction by the landlord in the name of his worker belonging to the scheduled caste community. As per record the lease is in the name of Dalit but the proceeds from

the land goes to the dominant caste landlord. There is no improvement in the living standards of the worker and it's sufficient to show that it's just a proxy game.

Adv. Rajesh Kumar pointed out that even where the Dalit is very much willing to get auction for himself, he is discouraged by the dominants in the village and even by the Administration by various methods which include non co-operation, violence, cancellation of the auction and later on to conduct the same secretly and even asking him that it is not a profitable business now a days.

He shared with the house that if even despite of all these kinds of obstructions created by the private actors and the state actors, if the Dalit participates in the auction and take the lease in his name he is got booked in false cases by the dominants to show the consequences to the others. Apart from the objective reasons the Dalits do not have advance money to be deposited for the lease and can pay only after getting the crops. Further they are not in position to arrange for the agricultural equipments and are not co-operated by the other farmers though the non-dalits are very much co-operated. He also shared with the house that at certain times in the field number of workers are required at a single like cutting the wheat or fixing the paddy, but the Dalits are not co-operated at this point also.

Advocate Rajesh further added that there is no policy formulated by the State to encourage to the Dalits and to get implemented the provisions of the Act and even no monitoring mechanism to ascertain whether the provisions are being implemented in its letter and spirit, whether if lease is shown in the name of some Dalit whether his living standard after that has some improvement etc. There is no effort put by the State to find out whether if any violence takes place or any case is booked against the Dalit, there is any connection in participating in the auction. The State remains a mute spectator in all these situations. Apart from this we do

not have any concrete regulations for the proper implementation of the provisions of the Act.

After discussing the challenges Adv. Rajesh Kumar shared the strategy for the implementation of the Act. He added we need data and since the government is not monitoring, we have to do this exercise to collect the data. Further we do need co-ordination with the individuals, experts, organization, stake holders and lawyers etc. from local level to the national level. We need to identify the victim and to provide all kind of support including legal aid if required. We need to get in touch with the media and to bring every kind of atrocity in public. We should connect ourselves with policy makers. We should file Public Interest Litigation(PIL) across the country. Adv. Rajesh Kumar added that we also need to flag the reasons of Dalits not coming forward to get their legal rights and to focus on plans like Scheduled Caste Sub-plan and other plans like that which can support financially dalits so that they can come forward.

SPEAKER: MR. DEVINDER SINGH FROM CENTRE FOR SOCIAL CHANGE AND EQUITY

Mr. Devinder Singh explained the provision of the Village Common Land Act, 1961 along with its Rules, 1964. He shared with the house that cultivable land can be given on lease for three years and the barren land for seven years. However the share of the Scheduled caste is reserved to one third of the total land. Further that the Panchayat can give the land to the scheduled caste candidate free of cost as well. He also added that the land is auctioned every year whereas it can be given on lease for three years also.

After this the house was for open discussion and most of the queries were satisfied by Mr. Jai Singh. A participant from Jharkhand shared about the land mafia active in that State. She informed that under section 20 of the Act operated in that state land of Adivasi cannot be transferred but it is happening.

OPEN HOUSE DISCUSSION/SUGGESTIONS BY THE PARTICIPANTS:

Ms. Manisha, Advocate from State of Haryana shared that auction is done in a secret manner.

Mr. Kuldeep Singh from Arpan shared that we do have 3000 Sarpanch from Scheduled Caste and if we could mobilize even one third of them we can get good results.

Mr. Ashok Mahindra an activist from the district Mukatsar shared about the district vigilance committees in every district which require having members from scheduled caste but are having members from general castes.

Ms. Sonam from Ambedkarist women era talked about the land under municipal committees and housing rights in the village.

Mr. Jai Singh tried to satisfy all the queries raised by the members present in the house. He told about the cooperative farming which was introduced by the first Prime Minister of India after getting impressed from the Soviet Union which subsequently went in the hands of the dominants. He told about the query raised by the participant from Jharkhand that the contract is void since it is in violation of section 20 of the Act of that State. In the response to the query raised by Ms. Sonam he replied that any married couple in the rural area can make representation

before Gram Sabha for providing him space for house. Further unmarried person more than 45 year of age is also eligible for moving such representation.

The meeting was concluded with vote of thanks by Veena Kumari from HRLN Chandigarh.

PARTICIPANTS:

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39.	Seema		
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41.	Govind Parmar		
42.	Suchitra Jha		
43.			