

JOYNAGAR DISTRICT MEETING

Date: 18.10.2020
Time: 11.00AM-02.00PM

Reporting By:- Piyasha Das
Edited By: Venkatesh Kodukula



REPORT ON USE OF LAW FOR PEOPLE **AFFECTED BY CYCLONE AMPHAN**

SCHEDULE FOR MEETING

Time	Session	Speaker
11.00am-11.10 am	Introduction	Aishwarya Adhikari
11.10am-11.45am	Human Rights Issues	Aparajita Bose
11.45am-12.30pm	Compensation for Victims and discussion on Ration distribution, Mid-day meal, 100 days job work, etc.	Adv. Sandipan Das
12.30pm-1.15am	Domestic Violence during lockdown	Adv. Soumitra Karmakar
1.15pm-2.00pm	Question and answer Session.	

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INTRODUCTION

The meeting was fixed for deprived people/villagers who didn't get the compensation declared by the State Government for Amphan affected and also about the knowledge of Human Right and other basic laws were also discussed in the meeting for the awareness of the people who are unable to get this basic information. That when the government declared the relief packages for the victims but the villagers unable to do so, due some political biasness or being lack of knowledge of proper information. Hence mainly the deprived people were badly affected by not getting the reliefs which required to them. It is also discussed in the meeting about our organization how it was founded by Dr. Colin Gonsalves and our moto is to serve people and provide Legal Aid. Our Organization use to conduct meeting in various Districts of West Bengal to for legal awareness, and to make people confidence so they can be able to tackle the situation as per basic law knowledge when it requires.

Human Rights are those minimal rights which every individual must have against the State or other public authority by virtue of his being a 'member of the human family', irrespective of any other consideration. The Constitution of independent India came into force on 26th January. The impact of the Universal Declaration of Human Rights on drafting part III of the Constitution is apparent. India has acceded to the Universal Declaration of Human Rights as well as to the subsequent International Covenants of Economic, Social and Cultural rights and Civil & Political Rights adopted by the Central Assembly of the United Nations. Fundamental Rights enshrined in Part III of the Constitution have emerged from the doctrine of natural rights. Fundamental Rights are the modern name for what have been traditionally known as Natural Rights. The Natural Rights transformed into fundamental rights operate as a constitutional limitation or a restriction on the powers of the organs set up by the Constitution or the State action. Judicial Review, Justiciability or Enforcement became an inseparable concomitant of fundamental rights. As no right of freedom can be absolute, limitations have been imposed to each fundamental right in the interest of securing social justice. Enforcement of fundamental rights can even be suspended or prevented in emergency. Directive Principles enshrined in Part IV of the Constitution epitomize the ideals, aspirations the sentiments, the precepts and the goals of our entire freedom movement. The wisdom of the forefathers of the Constitution was justified in incorporating non-justiciable human rights in the concrete shape of the directive principles.

SPEAKERS SESSION

Speaker 1- Aishwarya Adhikari

Aishwarya Adhikari started the introductory speech about the topic and introduced HRLN team and also introduced the organization to the villagers, and the meeting was started.

Speaker 2- Aparajita Bose

The speaker started the discussion with the villagers relating to Human Right oriented issues. How the people can resist their voice to protect their right and also know about their rights to live their life with dignity. RIGHT TO LIFE AND PERSONAL LIBERTY Art. 21 of our Constitution guarantees right to life and personal liberty. The Article runs as follows:- "No person shall be deprived of his life or personal liberty except according to procedure established by law." The first draft to the Constituent Assembly of this Article appeared in the following shape: "No person shall be deprived of his life or personal liberty without due process of law, nor shall any person be denied equality before law within the territories of the federation."

WIDER IMPLICATIONS OF RIGHT TO LIFE, Our Apex Court has been expanding over the decades, the dimensions of Art 21 i. e. Right to Life & Personal Liberty. In F. C. Mullin vs. The Administrator, Union Territory of Delhi & others (1981 2 SCR 516) Justice Bhagwati observed: "We think that the right to life includes the right to live with human dignity and all that goes with it, namely the bare necessities of life such as adequate nutrition, clothing and shelter and facilities for reading, writing and expressing oneself in diverse forms freely moving about and mixing and mingling with fellow human beings.....Every act which offends against or impairs human dignity would constitute deprivation protanto of this right to life and it would have to be in accordance with reasonable, fair and just procedures established by law which stands the test of other fundamental rights." The expression 'life' does not mean animal existence. Right to life guaranteed under Art. 21 of the Constitution have certain positive aspects and as such subject to well-organised limitation apart from obligation of the State not to deprive a person of his life except in accordance with a valid law. It is heartening to note that the Supreme Court has now been widening the scope of Art. 21, though earlier in A. K. Gopalan vs. State of Madras (AIR 1950 SC 27), the Court had taken very narrow view of Art. 21. Life in its expanded horizons today includes all that give meaning to a man's life, including his tradition, culture and heritage, and protection of that heritage in its full measure would certainly come within the encompass of an expanded concept of Article 21 of the Constitution.

She also described about our organization to the villager that we do ProBono cases, so the Justice can be reach to the grass root level, and also discussed various cases our organization do for the

public for example PIL, Writ, Acid attack case for the Victims, Domestic Violence Case, Human traffic case, POCSO cases, Rape cases for the Victims, etc, in various District Courts and in High Court at Calcutta if required in Supreme Court under the Guidance of Dr. Colin Gonsalves.

Speaker 3- Adv. Sandipan Das

The speaker started a discussion with the villagers about the victims who doesn't received the compensation. He also stated about the procedure when the announcement was made and how it was o be done. He also informed about the submission date was also extended further so more applicant can make application who at first attempt was not selected by the concern authority.

The Indian position regarding compensation to victim of crime can be studied under two heads or rather must be studied under two head in order to get complete picture.

(i). Legislative Framework Work:

The legislative framework in Indian regarding compensation to victim of crime can be trace through two major legislations i.e. Code of Criminal Procedure, 1973 and Probations of Offenders Act and Constitution of India. Under the provisions of code of criminal Procedure the power to award compensation is vested under section 357 . The plain reading of the section shows that sub-section (1) and (3) vests power on the trail court to award compensation and sub-section (4) gives power even to appellatant or revision court to order for compensation. Sub section (1) empowers the courts to appropriate the whole or any portion of fine recovered for the purpose mentioned in the clauses to the sub section, under which Clause (b) is most important and of our use . It demands that claim of compensation must be accompanied by following conditions:

1. Loss or injury suffered
2. Loss or injury must be caused by the offence
3. Such person can recover the compensation in a civil court

Sub section (3) empowers the court, in its discretion, to order the accuse to pay compensation even though fine does not form part of compensation and hence although inserted in 1973 added new positive dimension to Indian philosophy of compensation.

Probation of Offenders Act vide its section 5 empowers the trail court to order for compensation. The plain reading of this section clearly shows that the power in case of this Act vests only with the trail court and non-else . The whole discussion about legislative framework is incomplete until Section 431 and 421 of Cr.P.C. is read with above two substantive sections. Section 421 provides for means to recover the fine by attachment and sale of movable property of the offender and also from both movable and immovable as arrears of land revenue . Section 431

empowers the courts to recover any money (other than fine) payable by virtue of any order made under as if it were fine if method for its recovery is not expressly provided . As far as the Constitutional scheme is concern it is to be noted that it is out come of various decision of Supreme Court of India either by reading Part third rights (in some cases part four as well) with Art. 32, 136 and 142 of Constitution of India , which is to be given either by the state or accuse.

Hence the whole gamete of legislative framework about compensation can be summarized in following way:

Compensation from State, which is out come of Judicial Imposition or some times, even ex-gratia under Constitution of India.

Compensation from an offender which is out come either as a part of fine or allocation of specific sum to victim either under Cr.P.C. or Constitution of India.

(ii). Judicial Response:

Their exist plethora of cases where the compensation has been awarded by the Supreme Court to the victims of the crime which not only present the heart full moments but also exposed the sorry state of affairs that has been prevalent in the lower courts even some times High Courts.

He also discussed about the another govt facilities where available in this are area, like Ration distribution, Mid-day meal, 100 days job work, etc . Those who doesn't received compensation whether they have made any complain to the concern authority or not. If any people representative are involved in some malpractice for this distribution of reliefs then every villagers made a proper complain to the concern authority so the accused can be punished. Also discussed about the knowledge how the application should be made so it become more effective. The role of the B.D.O and D.M along with the local Panchayat is very crucial relating to these relief schemes. If they don't perform their duty the innocent people will suffer and the privileged persons with sources available to them will get unexpected benefits.

Speaker 4- Adv. Soumitra Karmakar

The speaker started a discussion upon the topic of Domestic Violence Act, as in these days as well as during this lock down period the domestic violence is increasing rapidly.

The Covid-19 pandemic significantly altered people's lives and most significantly family dynamics. The nationwide lockdown, imposed in March last year, was especially difficult for women since they had to juggle household chores and manage their work. By the second month of lockdown, complaints about domestic abuse doubled. Such complaints rose from 116 in the first week of March to 257 in the final week.

According to activists, the Covid-19 induced lockdown "trapped" women in their own houses, depriving them of "breathing space", which they would otherwise get. "The problem here is the mentality. Women, whether working or not, are expected to bear the entire burden of the family. The lockdown made it worse, "As soon as the entire family started staying together, 24 hours, in a confined space, the woman in the house is tasked with working and dealing with everything like a machine, from morning till night. Domestic help was also removed by families over fear of Covid, so ultimately from cooking, cleaning to washing, everything fell on her," she added. "Working women had to juggle between work and family. The pandemic also saw many layoffs. Women became the object for facing the brunt and frustration arising from financial instability."

There are alternative remedies available inspite of a criminal cases u/s498A I.P.C to get some reliefs either in terms of protection/ monetary reliefs. The villagers can be aware specially the women get some basic knowledge of the law, so they can be aware and if required help their neighbors.

The change in family dynamics also led to women being forced to stay with their abusers. "Abuse — whether physical, mental or emotional — increased because women during the lockdown period found no respite. They were confined to the walls of the house with their abusers. Drinking or not drinking, these abusers find reasons on a daily basis to vent their frustration on the women, and the pandemic made it worse,". As now a days it is increasing and the house hold women bear the violence as much as possible with a ray of hope that everything will be normalize. But this myth must be broken and the women must come forward and report this types of incident to local police station and after that a file a proper case against the accused for getting proper relief and teach them a good lesson and also the society about that women is a weaker section of society but they have ability to prove if they are deprived.

CONCLUSION

The basic rights and freedom that belong to every person in the world right from his/her birth until his/her death are collectively termed as “Human Rights”. These rights are applicable regardless of where you are from, what you believe in or how you choose to live your life. It follows that these human rights are fundamentally relevant to all of us, and not just to those who face repression or mistreatment. As far as India is concerned, Human Rights are generally understood as a set of inalienable fundamental rights to which a person is inherently entitled just by the dint of being a human being. So it is that, Human Rights are conceived as Universal and Egalitarian which are applicable to everyone and everywhere across the globe. One more characteristic of these rights is that they may exist as natural rights or as legal rights.

To talk of Indian laws on human rights – the crusader of human rights and chairman of drafting committee of Indian Constitution, Dr. B.R. Ambedkar, incorporated several provisions of human rights in Indian Constitution under Part III of Fundamental Rights from Article 14 to 32 and Directive Principles of State Policy from Articles 36 to 51 that include Right to Equality, Right to Freedom, Right against Exploitation, Minorities Educational Cultural Rights, and Right to Constitutional Remedies. Again, it is the constitutional mandate of judiciary to protect human rights of the citizens. The machinery for redress is provided under Articles 32 and 226 of the constitution. An aggrieved person can directly approach the Supreme Court or High Court of the concerned state for the protection of his/her fundamental rights, redressal of grievances and enjoyment of fundamental rights.

Over the years, the Courts have protected the right of the people in numerous cases whether it is a right against violence in custody, to live in a pollution free environment, right to health, right to adequate wages of the workers, safety of the women at workplace, compensation to rape victim, rights of the child laborers and so on. Apart from the government, there are several non-government entities (NGOs) which play an important role in protection of human rights. These organizations pick up the government’s deficits in service and help in protecting rights of the people. The Constitution of India provides a number of safeguards for the protection of human rights. Additionally, for the effective implementation of the human rights, the Government of India has also enacted the ‘Protection of Human Rights Act, 1993’, which provides for the establishment of the National Human Rights Commission, State Human Rights Commission in a number of states and also the Human Rights Courts at the district level. Thus, the Indian judiciary is working hard to protect the human rights of the people of India as well as to provide faster remedy to the victim of human rights violation.

But, in spite of such efforts by the Government, the objectives have not yet been truly achieved due to the following reasons and challenges:

Ø Though the Constitution of India has enumerated various rights, but there are large number of people who are not even aware of these rights guaranteed by the Constitution due to their unsafe conditions and struggle for every day survival.

Ø There are millions of people in this country who still live in a state of abject poverty – without food, shelter, employment, healthcare and education. And, corruption, denial of gender equality and exploitation of women, terrorism are some of the other issues which are seriously impacting human life at the ground level.

Ø “All Human Rights for All” should ideally be the goal of the century and it should be ensured that human rights are universally accepted and respected. The aim here has to be to secure the freedom, well-being and dignity of all people everywhere.

Ø The Right to corruption-free governance is also a human right in many ways. This is because corruption in the institutions of governance derogates human dignity of the people and also adversely affects them in several ways, thereby violating their human rights.

Ø Health for all must also be an important item in the human rights agenda. The aim of linking health and human rights is to contribute to advancing human well-being beyond what could be achieved through an isolated health or human rights based approach.

Thus, the one major challenge to human rights in the new millennium is to ensure distributive justice in the national as well as the global context. And, if human rights theory has an urgent job to do in the present times, it is to turn the tension from its current destructive motion towards a creative balance between the individual whom democracy offers to empower on the one hand and the sources of power, both within and outside the state apparatus, on the other hand.

INTERACTIVE SESSION

An interactive session was held with the participants. In this session the participants raised various questions which were answered by the advocates of HRLN.

Annexure A

1	Asit Baran Kayal	8670187779		Asit Baran Kayal
2	Pradyumn Singh	9930680192		Pradyumn Singh
3	Manoj Kumar	9775101106		Manoj Kumar
4	Pradyumn Singh	9530269371		Pradyumn Singh
5	Pradyumn Singh			
6	Pradyumn Singh	9064926192		Pradyumn Singh
7	Asit Baran Kayal	7602770924		Asit Baran Kayal
8	Pradyumn Singh	7384303123		Pradyumn Singh
9	Pradyumn Singh	7029638287		Pradyumn Singh
10	Tara Shibli	7439118314		Tara Shibli
11	Pradyumn Singh	964662908		Pradyumn Singh

12	Pradyumn Singh	7449676615		Pradyumn Singh
13	Pradyumn Singh	9123950838		Pradyumn Singh
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21	Pradyumn Singh	7602820921		Pradyumn Singh
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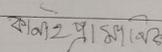
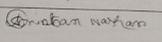
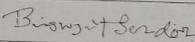
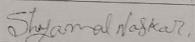
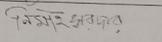
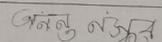
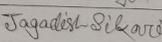
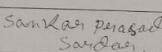
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Dinesh Nayak					Dinesh Nayak

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Registration Sheet
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Date – 18/10/2020

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3	Biswanjit Sandan	9057907911			
4	Jyotirmal Naskar	8670204481			
5	Fasitiz Sastri	9933363090			
6	Atulya Naskar	7316695377			
7	Jagadish Sikari	9635135009			
8	Sankari Prasad Sandan	9732280227			

Annexure B



