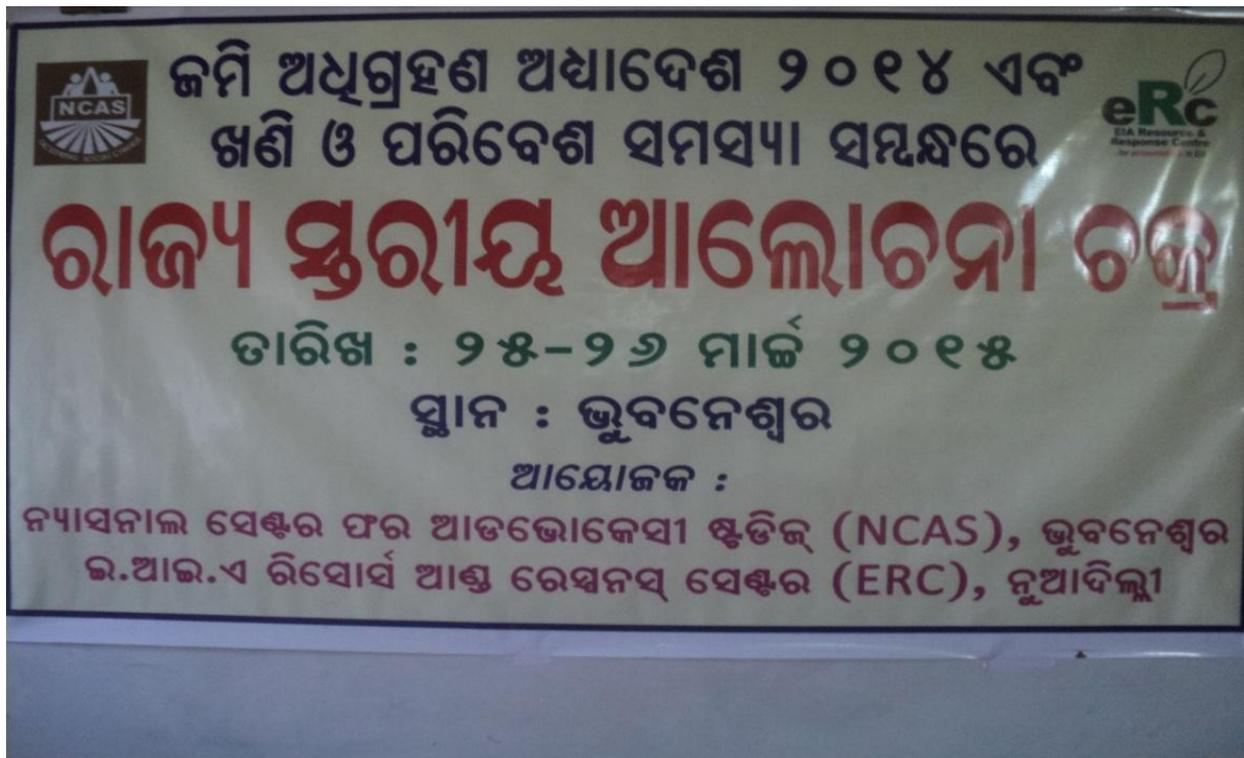


State level consultation on land acquisition ordinance and Mining environment issues in Odisha

Date: 25th and 26th March 2015
Venue: Red Cross Bhawan, Bhubaneswar



Organised Jointly by
EIA Resource and Response Center (ERC), New Delhi &
National Centre of Advocacy Studies (NCAS), Bhubaneswar

Introduction

A two day workshop was organized on 25th and 26th of March, 2015 at Red Cross Bhawan, Bhubaneswar jointly by EIA Resource and Response Center (ERC), New Delhi and National Centre of Advocacy Studies (NCAS), Bhubaneswar. There were 41 participants representing different Non-Government Organizations, Civil Society Organisations, activists and individuals. Most of them are working on land and environmental issues both at grass root level and policy level across Odisha. Dr. Manoranjan Mohantya (retired professor of Delhi University), Dr. Sricharan Behera, Adv. Shankar Prasad Pani (Environmental Lawyer from ERC) along with Priyabrata Satapathy (Action Aid) facilitate and steered the programme. The consultation was chaired by Mr Sandeep Kumar Pattnaik.

Background

Central government has already passed the Coal Mines (Special Provisions) Bill, 2015 and MMDR Bill 2015 in both the houses of the parliament during the budget session. Government is trying to get the Land Acquisition Bill passed, however, there are series of protests against the Bill by different groups and opposition parties across the country. Government of Odisha has come out with Odisha Draft Rules under LARR Act, 2013.

Odisha is one of the States where indiscriminate mining and industrialization has caused severe and irreparable loss to community and environment over last two decades. As a result, there has been also a growing resistance against such hazardous activities across the state in various pockets. In the case of Hirakud Dam, even after 50 years of displacement, government does not have any database of displaced persons and compensation could not be disbursed. Similarly, the land losers in Rourkela Steel Plant are still running from pillar to post to get a job against their lost land even after 50 years of setting up of the plants. So as to address these concerns and explore the possible ways to combat this man-made havoc, this consultation was organized for activists engaged at grass-root as well as policy level on these issues.

25 March 2015 – Day 1

The meeting started at 11.00 am with a welcome address by Mr Sandeep Kumar Pattnaik. He shared the objectives of the program in brief along with the schedule. He emphasized the present situation of Odisha and invited the participants to explore ideas in order to combat this situation.

Major points raised by Mr. Sandeep were

- Land acquisition ordinance is a matter of concern at present.
- All have to think about what could be done in Odisha at this juncture.
- Land is coming under concurrent list. Land is an identity of a person. When she/he loses land her/his identity is also lost.

- There are so many movements going on across Odisha where people are opposing the present understanding of development.
- Strategically we need to observe what is going on at India level, what is going on at regional level and also at UN level.

After Mr Sandeep's address, Prof. Dr. Manoranjan Mahanty led the session. He spoke on India's Developmental Focus Vs Rights of Community over Natural Resources. From his vast experience, he analyzes the present situation where we are living. Some highlights of his sharing are given below:-

- Odisha is a state of resources. The global capital is affecting those regions which are full with resources.
- Modi Government has brought many changes within 10 months in order to support the agenda of global capital. Three major changes can easily be observe which are showing his intention:
 - Bringing the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2014.
 - Changes in the environmental clearance part of FRA rule.
 - Diluting MGNREGA which is an act to protect livelihood.
- Vasundhara Raje, the Chief Minister of Rajasthan was arguing for the changes in MGNREGA. As per her statement MGNREGA needn't be remain as an act but it should be changed into a scheme. It should be a target base program.
- Present Modi government want to dilute all the pro-people acts, rules, schemes, programs etc.
- Gandhiji had opposed parliamentarian democracy because it is a source of corruption.
- China becomes an unequal society in last 30/40 years because of growing industrialization and global capital.
- Inequalities are rising globally because of profit making competition. Everywhere you will come across profit versus service.
- There is no recognition of indigenous or traditional knowledge.
- Establishing a legal framework never end the process of demanding the right.
- In reality codification of rights usually limit the scope of rights.
- FRA is not just talking about forest but also talks about right to bio-diversity; right to indigenous knowledge etc. we/community need to assert that aspect/perspective of FRA.
- Dual character of state can easily be noticed:- In every act and rule, we are entitled to enjoy some rights but at the same time some limitations are also impose upon us.
- Right based approach should be understood differently. It starts a political process of development of the people in the community.

There was round of introduction of the participants coming from different parts of the State.

Land acquisition ordinance – Concerns and Challenges

Mr. Sandeep Pattnaik was very interactive as he spoke about the possible impact of this ordinance on grass root people. Some highlights of his session are given below:-

- We need to understand whether 1 man should develop 100 times or 100 people should develop 1 time.



- Displacement is not just an issue but a set of issues:- migration, identity, livelihood etc. A report says that around 60 million people were displaced. In reality, we don't even have an accurate figure of displacement.
- The activist must understand the necessity and

purpose of social impact assessment.

- LARR has not covered the rights of share cropper. How their rights will be protected, is a matter of debate.
- In June 2014 Govt. of Odisha had circulated LARR rule.
- As per LARR, 2013, 13 other acts such as coal bearing areas acquisition and development act, 1957, The Railways act, 1989 etc. which has been used for the acquisition of land will be remain same but the compensation part will be changed.
- LARR, 2015 allows private hospitals and educational institution to acquire land.
- In LARR, 2015 the definition of private company is also expanded which includes all kind of private entities like proprietorship, partnership, corporation, and non-profit organization.

Following Mr Sandeep's talk, an open discussion was held where the participants took part.

Odisha LARR Draft Rule

Dr. Sricharan Behera from Action Aid delivered a detailed talk on Odisha LARR Draft Rule. Some highlights of his sharing are given below:-

- SIA (Social Impact Assessment) is vital. Civil society needs to find its space in SIA process.
- Detail provision of SIA is given under the draft rule.
- The share croppers are left out from the SIA (Social Impact Assessment) process. There is no such mechanism to identify them in the SIA process.
- The public hearing need to be conducted among the affected families with 50% must be women.

Following the talk of Dr Sricharan, an open discussion was lead by eminent activist, Chittaranjan Behera. Almost all the participants participated in this discussion. Some major points emerged through the discussion are given below:-

- The concept of Land Bank is unclear.
- Categories of land are a debatable concept.
- Consent of the land owner should be collected in written form during the public hearing in order to make it transparent.
- People also irrigating their land in traditional system but the state had never considered those lands as irrigated land.

With that discussion Day 1 came to close.

26 March 2015 - Day 2

The session started with the experience sharing by several participants who came from different regions of Odisha. Some key sharing of participants is given below:-

- Bideshini and Bhajaman (from Sundergarh) talked about the challenges they are facing in their respective field. The corporate mafias are threatening them.
- Sishir Mohapatra shared his experience in POSCO region. According to him, divide and rule policy is one of the main strategies of the corporate. They are dividing people through different means in order fulfill their agenda.
- Adv. Sudhanshu Nanda from Kalahandi shared his experience on working with National Human Rights Commission (NHRC). It can be used as a tool in order to raise different issues.
- Manohar Chauhan shared his experience of a fact finding in Kalahandi.
- Sunil kumar Amat from Talcher shared his experience of his region. He explains how the people have been affected because of mining. The dalits, adivasi and other backward people are mostly affected because of mining.
- Biduraj Soren from Mayurbhanj shared his experience of a dam project of his region. In that dam area, people from 15 villages who lost their land since 1990, have formed an association. The district association and media are not supporting the cause of people.
- Hemanta Raut shared his experience on Talabira mining. A case was filled before the Lokpal. The waste water from the industries is the root cause for Jaundice in Sambalpur region.
- Biswanath Patra from Jajpur shared his experience of mining in his region. There are nearly 12 mining regions where companies are involved in industrialization and mining. Administration is also very keen to acquire land and displace people.

After the round of sharing from the participants, Adv. Sankar Prasad Pani from ERC, New Delhi took over the session. He spoke on the status of mining environment. Some highlights of his session are given below:-

- The tribal populated region consists of 76% of total mining area in Odisha
- So far not even a single case has been filled under section 3(a) and 3(b) of Forest Conservation Act, 1980
- Adivasi are harassed by police as false charges are imposed upon them.
- Talcher was declared as critically polluted area since 1989.
- As per the planning of government, Anugul and Talcher region will produce nearly 13,000 Mega Watt of electricity. It is estimated that Odisha will produce nearly 37,000 Mega Watts.
- Mining is also affecting the life of forest animals.
- CSR activities are either absent or not complying with the standard in Odisha.
- People of mining region are extremely poor. They have been gifted with poverty because of mining.
- Even though the lease was given to OMC (Odisha Mining Corporation), still the private companies were conducting mining in that region where they didn't have lease for mining, it was happening before 2010.
- Out of 90 abandoned mine in India, Odisha has 4 but hardly any reclamation of such abandoned mines has been done.
- The inspection mechanism of IBM (Indian Bureau of Mines) is very poor.

After this presentation, the discussion on Mines & Minerals (Development and Regulation) Amendment Bill 2015 began. Some of the major points in the new Bill like extending the lease period to 50 years instead of 30 years at present, auctioning of leases, reservation of notified minerals, National Mineral Exploration Fund and District Mineral Foundation were discussed.

Mr Y.Giri Rao from Vasundhara lead the discussion after the talk. He said that the pollution control board is not functioning efficiently, hence it will be better if the gram sabha will take over the responsibility of pollution inspection. He had also shared the Zeist of 2 reports of CEC and invited the participants to goes through those reports seriously. 1. How the CSR fund remains unutilized in 4 districts of Odisha 2. Pollution status of mining region.

Role of the community in Environmental decision making process

Mr Priyabrata Satapathy from Action Aid spoke on Role of the community in Environmental decision making process. Some highlights of his session are given below:-

- After Bhopal gas tragedy, every one became serious about environmental protection which had laid the foundation for Environmental Protection Act, 1986.
- Rio declaration in 1992 is mainly advocating for the public participation.
- There are 3 categories of project under EIA Notification such as A, B1 and B2.
- A category projects need to obtain clearance from central government whereas B categories from state level authority.
- The civil society has a vital role in EIA process.

National Green Tribunal (NGT) - Remedy for Relief, Compensation & Restitution of Environment

Mr Sankar spoke on Remedy for Relief, Compensation & Restitution of Environment as provide for in NGT Act, 2010. Some major sharing by him are given below:-

- In the public hearing of Bhushan in Jharsuguda, so many post cards were sent to the public hearing by mentioning “we welcome the project”.
- Engagement with EAC (Expert Appraisal Committee) is vital.
- The civil society should engage with the Environment Impact Assessment Committee at state level.
- From 2008 onwards, nearly 80% of public hearings were conducted twice or more because of the protest from the affected people. This indicates there has been severe discontent among local people the way industrialization and mining are taking place
- The minutes of the public hearing never read out before the public at the end of the meeting.
- Notification for the public hearing should be advertise in two widely circulated newspapers. Similarly when environment clearance is granted to any project, the full contents of EC letter should also be published in newspapers. It should also be put on the notice board of Gram Panchayat office.
- The eco sensitive zone should be an area of 10 km radius of the protected area boundary but in Sikkim it has been reduced to 25 meters thereby frustrating the whole spirit of buffer zone.
- National Green Tribunal (NGT) of India is one of the only four such Tribunals in the world to settle exclusive environmental issues.
- NGT Act has 3 different provisions of Relief.1. Relief and compensation to victims of pollution. 2. Restitution of property damaged.3. Restitution of environment of such area and areas.



During his presentation on NGT, Adv. Sankar explained the preamble and structure of the NGT Act. Along with that he explained the jurisdiction of NGT.

Later Bhajaman made a small photographic presentation on OMC mines and Saraikala village.

Conclusion

Concluding session was headed by Mr Sandeep and following action plan was decided.

- In Odisha, participants in this consultation should take up at least 4/5 cases in NGT.
- A strategy has to prepare in order to make LARR as a political agenda.
- Prepare an advocacy plan on the draft rule of Odisha
- The present government wants to do away with the Schedule Area provision so that it can undertake mining, industries in the Schedule Areas. It is an alarming situation for the civil society.
- The increase of non-Adivasi people in Schedule Area is a threat. May be a time will come when adivasi will become a minority in schedule area. We need to think over it.

In the end, Mr Sandeep thanked participants, facilitators, organizers and resource persons for their time and sharing expertise and experience.

Final Programme

25th March 2015

Time	Session	Moderator
9.00 - 10.30	Registration	
10.30 - 11.00	Welcome and Introduction	
11.00-11.20	India's Developmental Focus Vs Rights of Community over Natural Resources	Dr Manoranjan Mohanty
11.20 - 11.40	Land acquisition ordinance - Concerns and Challenges	Mr. Sandeep Kumar Pattnaik
11.40 - 1.30	Sharing of experiences Open session	
1.30 -2.30	Lunch	
2.30 - 3.00	Odisha LARR Draft Rule	Dr Sricharan Behera
3.00 - 5.00 pm	Sharing of Experiences Open session	Mr. Chitta Behara
5.00 - 5.30	Way forward	

26th March 2015

Time	Session	Moderator
9.00 - 9.15	Status of mining environment	Mr. Shankar Prasad Pani
9.15 - 10.00	Sharing of experiences on the issues of mining and industrial pollution	Mr. Ranjan Panda
10.00 - 11.15	Understanding the provisions of Mines & Minerals (Development and Regulation) Bill 2015	Mr. Y Giri Rao
11.15 - 11.30	Tea	
11.30 - 1.00	Role of the community in environmental decision making process (Public hearing, Expert appraisal committee, forest advisory committee, Grievance mechanism)	Mr. Priyabrata Satpathy
1PM - 2 PM	Lunch	
2PM - 3PM	National Green Tribunal (NGT)- Remedy for Relief, Compensation & Restitution of Environment	Sankar Prasad Pani
3.15 PM- 3.30 PM	Tea / Coffee	
3.30 PM - 5.00 PM	Prioritizing the environmental issues and concerns of Odisha and way forward	Mr. Ghasiram Panda

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Media Coverage

<http://www.dailypioneer.com/state-editions/bhubaneswar/consultation-on-land-mining-ordinances-held.html>

<http://orissadiary.com/CurrentNews.asp?id=58303>

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