

Engaging people in right to food and work litigation

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The context: scarcity amongst plenty

A striking fact in India today is the coexistence of huge public stocks of food grain with abject poverty on a large scale. According to the 1993–4 official estimates, 244 million people are below the poverty line in rural India alone, and there are very high levels of casual employment at very low wages. Hunger is widespread, especially in drought-affected areas, and many cases of starvation deaths are reported across the country.

Despite the enormity of the problem, one is confronted with enormous state neglect in ensuring that food reaches the poor through social welfare schemes. Despite the existence of nine major central government-supported social welfare schemes, relief programmes have been very limited in most states. Although the government has long been expressing its commitment to the 'right to work', no action has been forthcoming. Increasingly, the state seems to be abdicating its responsibility towards the well-being of the people.

There was a need to bring the issue back on the national agenda and establish that the State is duty-bound under the Constitution to provide food and work for the poor and marginalised, not just as a short-term relief but as an entitlement.

Rights to food and work campaign

On 9 May, 2001 the People's Union for Civil Liberties (PUCL), Rajasthan, filed a Public Interest Litigation (PIL) on the 'Right to Food and Work' with the highest judiciary body of India, the Supreme Court. The petition drew attention to the State's responsibility towards people experiencing or at the edge of chronic hunger.

The PIL was initiated by a group of people's organisations, lawyers, and intellectuals including PUCL, the Socio-Legal Information Centre, Akal Sangrash Samiti, and economists such as Jean Dreze. By adopting people-centric processes and strategies it is increasingly becoming a strong campaign which can influence state agencies and policies.

The objectives of the campaign were to:

- Place the right to food and work on the national agenda, and to establish that the state is duty-bound
- Ensure the participation of the grassroots
- Ensure direct advocacy

under the Constitution to provide work and food for those sections of the population whose food security is threatened. Also, this is not charity but a right and entitlement of the poor and marginalised sections of society.

- Build group support and cooperation between groups, peasant organisations, people's movements, intellectuals, and researchers working on these issues all over the country.
- Search for workable long-term drought and hunger mitigation strategies and undertake policy and media advocacy on the same. The long-term policy intervention would move towards ensuring:
 - a guarantee of employment for all able-bodied people at statutory minimum wages.
 - food as an entitlement for non-able-bodied people, along with infants, children, widows, the aged, etc.
 - Public Distribution Service (ration shops) as an entitlement.

The campaign covered 13 areas: Assam, West Bengal, Bihar, Jharkhand, Chattisgarh, Madhya Pradesh, Maharashtra, Gujarat, Karnataka, Tamil Nadu, Kerala, Orissa, and Delhi.

The process

If the campaign was to be successful, there needed to be huge resource mobilisation both at the centre and at state level to collect field data, monitor compliance with Supreme Court orders at the field level, report back to the Supreme Court with hard facts, and build pressure groups to influence State and central government agencies for policy change.

A central core group was informed, but it was also important to develop networks of local organisations to carry out research, build support, and put pressure on government agencies. The campaign's strategies were based on four guiding principles:

- Build local solidarity groups between directly affected people, citizens groups, intellectuals, and the media
- Take the judgement to the community so that the poor actually benefit from it

Strategies were regularly reviewed based on the reflections and response coming from the grassroots. In order to get concrete grassroots feedback, the lawyers of the Public Interest Litigation (Colin Gonsalves and Yug Choudhury) went from state to state and meet the various people's organisations and groups. During their visits, meetings bringing together various people's groups were organised in each of the state. It was here that they shared their experiences.

These principles were translated into action through participatory research, local solidarity and pressure groups, a national campaign and media advocacy.

Participatory research

To take the litigation process forward it was necessary to provide professionally acceptable data to the Supreme Court bench headed by Justice B.N. Kripal. At the same time, the data collection process had to be participatory, non-extractive, and an important tool to mobilise people. As well as extensive research and collection of secondary material from government and NGOs, situation analysis of and by the directly affected people was done through a combination of conventional and non-conventional methodologies. Group discussions and public meetings bringing together the directly affected people, social researchers, grassroots activists, government officials at the central and state levels were all important methods of analysis. These are also important tools of mobilisation of groups and individuals.

Groups of state level have developed various approaches to collecting the views of the people. One example comes from the district of Balangir in Orissa where the process is being facilitated by Collective Action for Drought Mitigation (CADMB), a people's movement composed of several local community-based organisations and NGOs. CADMB works through a three-level structure.

First, local-level organisations take responsibility for collecting data at the village level since they have a good understanding of the local situation. The organisations facilitate a process of micro-level planning (MLP) in which the affected people themselves do a situational analysis, and come out with solutions to the problems being faced. The basis of MLP is that it is people-centred, and relies on people's decision.

Second, a project advisory committee acts as a support agency for the CADMB network, and reports to it as well. The committee comprises of representatives from each of the partners in the CADMB network and includes teachers, media persons, political representatives, and government officials.

Third, the resource centre situated at Balangir puts together the data collected by the group and sends it across to the centre in Delhi. The data is then presented to the Supreme Court. Personal affidavits by directly affected people have also been used, enabling people to speak of their real-life experiences.

The pooled efforts of the various groups in the regions in collecting authentic state and village-level data, provided the basis on which counter-arguments to the state governments' affidavits were submitted to the Supreme Court.

Developing local solidarity and pressure groups

In each state, local solidarity groups have been initiated. People's groups, NGOs, academicians, independent researchers, lawyers, and sensitive media persons, who have been working on these issues at the grassroots level, have been brought together. The idea is to form regional networks in each of the 14 states.

These state-level solidarity groups work upwards from the village to the state level by collecting concrete research data (primary and secondary), and by listening to the voices and the opinions of directly affected people. Based on these, they can then suggest actions and policy alternatives (such as an employment guarantee act, interstate migration act, etc.) and work as a pressure group to influence the various state agencies and media.

In each state, just as in the case of the centre, attempts have been made to form a core group. For instance, in Kolkata a group composed of various organisations – Jana Shakti Kendra, Mallarpur Uthanau, INSS, Sundarban and ActionAid (West Bengal) – has come together and is now trying to establish a large network, as well as being engaged in media and policy advocacy in West Bengal. Similar processes are being carried out in other states, including Karnataka, Chattisgarh, Madhya Pradesh, and Gujarat. In Rajasthan, the Akal Sangarh Samiti is closely associated with the process of mobilising people, media, and state officials. The organisation has a history of working at the grassroots level on the issue of hunger, and a strong people's movement has already developed.

National campaign for the right to food and work

It was also felt that there was a need to mobilise the strength of the networks to apply pressure at national level. Representatives from state-level networks formed an alliance at the national level, and these representatives brought the voices of the regions to the centre. The idea was to try to encourage groups from the various regions to act with unity of objective, evolve national consensus, and develop a strong national pressure group and campaign for influencing policy change at the centre.

Media advocacy

Systematic attempts were also made to mobilise the media at regional, national, and international levels. The PIL and the issue of hunger received wide coverage across the country, and features and lead articles have appeared in most of the regional and national newspapers. Press conferences were also organised where the media had a direct interface with the affected people. Similarly, attempts were made to organise press tours to the affected areas.

The participatory process has created a lot of awareness and recognition among people. It was a good way of making the PIL a live issue. It worked well, leading to cooperation among different segments of civil society – economists, social researchers, lawyers, grassroots activists, and the directly affected people. These participatory efforts made some significant achievements possible.

The Supreme Court order: the turning point

The Supreme Court looking at the hard data and situation analysis expressed serious concern about the increasing number of starvation deaths and food insecurity that were occurring, despite overflowing food warehouses across the country. Making the central and state governments responsible, the court directed all state governments to ensure that Public Distribution shops were kept running. It also ordered them to file replies explaining ways of overcoming the problem of distributing grain. There was also much discussion on the mechanisms of decision making, accountability, transparency, and people's right to information. The Supreme Court noted the need to form state-level committees composed of credible NGO representatives and sensitive and responsible government officials to monitor the working of the various social welfare schemes.

The turning point in the case was the 28 November 2001 Supreme Court order. The order effectively converted the provisions of eight food security schemes into entitlements (rights) of the poor. In a strong interim order, the Supreme Court directed all state governments to provide cooked midday meals in all government schools by January 2002 under the Integrated Child Development Scheme (ICDS). When the counsels of some state governments tried to object on the grounds that financial resources were lacking, the bench, headed by B.N. Kripal, swept their objections aside: 'We cannot compromise on school meals,' he said. 'Cut out the flab somewhere else.'

To ensure people's right to information and transparency, the Supreme Court directed that the order should be translated into local languages and displayed in all *panchayats* (local self-government). Details of all the nutrition-related schemes, including lists of beneficiaries,

are to be made available to the public for inspection. The court has also directed the State-owned media to ensure adequate publicity for the order.

Orders from the highest judicial authority in the country requiring that the various welfare schemes be implemented under close supervision in every state has the potential to go a long way in achieving fair play, equity, and justice. A small indication of this is that in 2000, the states had taken only about 20% of the central allocations for various food related schemes. In 2001, up until the last order of the Supreme Court, this had gone up to 50%, largely on account of the various compliance reports that the state governments were being asked to file by the Supreme Court.

Implementation and monitoring – the challenges and lessons

The PIL has demonstrated that, with all its limitations, the judiciary can prove to be a useful weapon for the poor to make the State more accountable and transparent in nature. Today, the Supreme Court, through its orders, has secured greater accountability than in over a decade from central and state governments in its basic duty to ensure food to every person.

The order is a significant success for the Right to Food and Work Campaign, and represents a definite movement forward in the collective struggle for the right to food. Although it is just one step, it opens up a real opportunity for the campaigners to ensure that the benefits of the welfare schemes reach poor and marginalised people. However, in order to achieve this, there is an urgent need to:

- monitor the implementation of the Supreme Court orders at the ground level
- communicate these entitlements to their intended beneficiaries

There is also a need to move towards searching for alternative policies and acts, such as an employment assurance act and an interstate migration act.

Finally, a very important lesson from the campaign is that the creation and acceptance of new policies and laws relies heavily on the prevailing force of public opinion. There is thus a need not only to sustain but also to strengthen the momentum of the campaign.

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