

Law for the people: interactive approaches to legal literacy in India

by SANJAY UPADHYAY

Introduction

The term 'law' evokes a variety of reactions and responses (Box 1). The development sector, at least in India, is on the one hand extremely vigorous in court action, but on the other, minimally informed about the legal system. The myth surrounding law and legal terminology is perhaps the biggest reason for pending litigation and lack of enforcement measures, especially in rural areas. Demystifying law, legal systems and legal literature is crucial.

This paper describes one such effort in rural Rajasthan, India, a state mostly populated by tribal people (legally recognised indigenous people). A new radical law on tribal self-rule empowers village assemblies (*Gram Sabha*) to manage community resources and act as institutions of self-government on almost all the socially relevant issues surrounding tribal villages in India. But while the law exists on paper there is very little to show on the ground. One of the central reasons for this void is tribal people's lack of knowledge of the new legislation. Therefore, through an empirical assessment of this situation and the presence of an active people's organisation, the Enviro Legal Defence Firm (ELDF) lawyers decided to take the law on tribal self-rule to tribal people through interactive legal literacy sessions (locally named *Panchayat Shivir*).

"Law is a powerful tool – but only if it is understood well"

- The legal literacy sessions were conducted at three levels:
- With senior staff in state-level partner NGOs who work with tribal people. The technical aspects of the legislation were dealt with in detail, so that they become more equipped in the formal language of the State, in order to facilitate their own advocacy processes.
 - At district level with members of people's organisations. This is done using less technical language, with more emphasis on the spirit of the law, which then can be used by village organisations, community-based organisations (CBOs) and village assemblies.
 - At village level (selected villages in consultation with partner NGOs/CBOs). This is done with mixed groups of interested women and men, in vernacular language wherever required, and with a simplified version of the law on tribal self-rule.

The rest of this article describes the experience with *Panchayat Shivir* at village level.

Box 1: Different views of 'the law'

Understanding Panchayats with special reference to tribal areas – Orissa Development Action Forum, Gram Vikas, Behrampur, Orissa, India, 13-14th October 2004.

Development professionals' response to: What do you understand by the term 'law'?

Common sense, dos and don'ts, context, community, written form, discipline, normative frame, protector, hard to carry out, set of impositions/instructions, to restrict freedom, instruments of power holder to dominate/rule, control mechanism, principles of governance, conditions, specialised knowledge, justifications, complication, litigation, principles of social justice, pain, liars, marriage between discipline and administration, middleman, controlling system, black and white, political interest, problem solving, anarchy, dominant, rationalising, principles governing a system, court, trial, judge, magistrate.

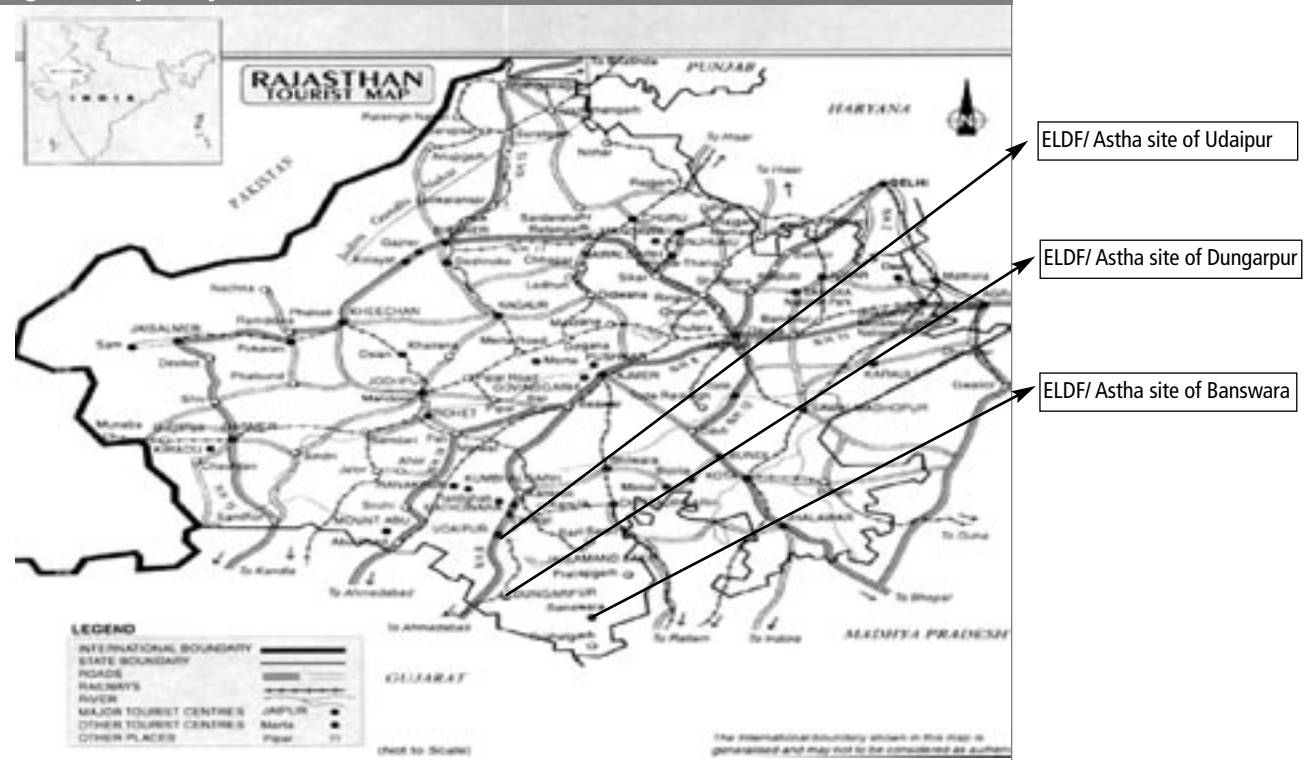
Rajasthan and the Tribal Self-Rule Law

Rajasthan is one of the most beautiful states in the western part of India, which attracts tourists from all over the globe due to its rich traditions and colours. Dense forests dominate the south of Rajasthan. Due to the predominance of tribal popu-

lations, parts of the region have been demarcated as Scheduled Areas, areas for special administration under the Constitution of India. The enactment of the Provisions of Panchayats (Extension to Scheduled Areas) Act, 1996, popularly known as the Tribal Self-Rule Law, ushered in a new era of empowerment of the lowest unit of governance (Gram Sabha, or village assembly).

This national legislation gave one year to each state to conform to the central mandate by amending their respective Panchayat legislation. However, Rajasthan failed to do so within the stipulated time. This inability of the state triggered a movement for self-rule, led by numerous tribal organisations and spearheaded by Astha, a well-respected rural development and rights NGO, in southern Rajasthan. Two years of protests followed, which finally forced the state to enact the conforming legislation in 1999. In a national study in 2000, what came as a real surprise in Rajasthan was the great enthusiasm for the law but very little effort to understand its details, impacts, or links with other legislation. At this point Astha and ELDF mutually realised that tribal empowerment was only possible if people actually understood the law to the point that they could use it. Law is a powerful tool – but only if it is understood well.

Figure 1: Map of Rajasthan, India



The need to demystify legislation

The Tribal Self-Rule Law touches on tribal ethos very closely. The legislation covers every aspect of tribal life including:

- management of community resources;
- protection of customs;
- preserving traditional modes of dispute resolution;
- controlling social evils such as exploitation in money lending;
- land alienation; and
- controlling social and developmental plans at the village level.

The only problem seems to be the manner in which the law is written and understood – and as a result it has failed to reach the masses. The challenges of legal language are immense and unless a conscious attempt is made to **demystify** the legal jargon, the potential of such legislation to support people's self-determination cannot be realised.

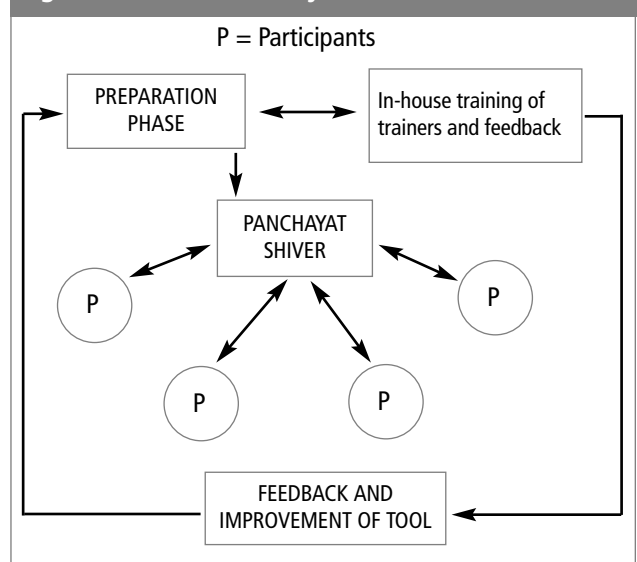
The process of *Panchayat Shivar*

Legal literacy sessions are part of an ongoing process. A typical day-long event starts with a facilitator from Astha informally introducing the lawyers from ELDF. Introductions to Supreme Court Advocates raise the expectations of the audience and create an interest in – and legitimacy of – the training session. All participants then introduce themselves, and leading questions test their level of familiarity with legal language.

One example is the question: 'What comes to mind when you hear the term "law"?' The words that come from the group are linked to the subject matter: provisions of the law on tribal self-rule. Terms such as 'control', 'recommendatory', 'power', 'customary law', 'customary practice', 'shall', 'may', 'minor forest produce', 'minor minerals', '*panchayats*', and '*gram sabha*', are explained and related to the provisions. While explaining the details through day-to-day examples, women and those who normally speak less are especially encouraged to speak. Intermittent breaks and starting the new session with a folk song makes the atmosphere lively and amenable to sharing and learning.

The first session is normally on conceptual issues, the second session discusses issues experienced in the region, and the third session relates actual examples to relevant legal provisions. In all cases the language used is non-technical. Complicated legal terms are simplified by using day-to-day language. A typical one-day event ends with a review 'What did I gain or lose today through this session?' then a song or a prayer. Feedback from participants and leaders of sessions is used to improve how sessions are run and to train others to facilitate *Panchayat Shivar* (Figure 2).

Figure 2: Process of *Panchayat Shivar*



The challenge of communicating law with illiterate people

One of the foremost challenges that soon dawned during the literacy sessions was that the groups we were communicating with were not only unfamiliar with law, but also illiterate, with no formal education. Legal training by professional lawyers who are urban trained in prestigious law schools to an audience that barely understand even the national language was a big constraint in the beginning. It was soon clear that vernaculars are the most comfortable medium of communication in such situations. There are thousands of dialects in India, which indicates the enormity of this challenge. We realised that the usual law sessions and training curricula would not work and innovative approaches had to be adopted to make any headway.

Innovative approaches

Six rules of thumb helped us to communicate the aims and workings of the Tribal Self-Rule Law.

Know your audience

It is essential to not only understand the nature and profile of the participants (e.g. their means of earning a living) but also to map their strengths and weaknesses. Their level of literacy, existing knowledge and experience with law, and comfort with different languages all make a difference and should be known before starting out. It is here that the partnership with Astha was useful as they were well aware of

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their members. Thus the discretion to choose participants was given to Astha and at the same time the literacy sessions started with leading questions to ascertain the participants’ profiles. Often informal questions on the understanding of law and legal terminology, linking it up with their day-to-day language, helped the process.

Learn and teach by real examples

Often a well known or a real example breaks the ice with a group who are not familiar with the law or how it operates. It is always better to start with a real-life scenario and link it up with law rather than starting directly with information about the provisions of law. For example, if a community utilises a forest product and there are issues of control, ownership or transit, it is best to explain why and where the law operates in each of these instances. Talking about the day-to-day situation leads to a discussion of legal provisions and a demonstration of why, say, the enforcement agency behaves in a particular way. Or when and where people need to exercise caution to avoid breaking the law. Or about issues where they worried that they had committed legal violations, but actually had not.

Emphasise the importance of legal terminology

Terms mean different things in day-to-day language compared to the law. For example, if people have been taking headloads of wood under the impression that it is their ‘right’, it may so happen that the statutes record this as a ‘privilege’. The difference between a right and a privilege may entail totally different legal consequences in a conflict situation when brought before a court of law. More subtly, ‘minor forest produce’ and ‘major forest produce’ are subject to different legal provisions, but state government agencies and village assemblies might have rather different ideas of what is included. We did an exercise to determine what counts as ‘minor forest produce’ (MFP) during one of the literacy sessions, to bring out this point more clearly (Box 2).

Box 2: Comparative table of State list of MFP, and list of MFP as per the Village Assembly

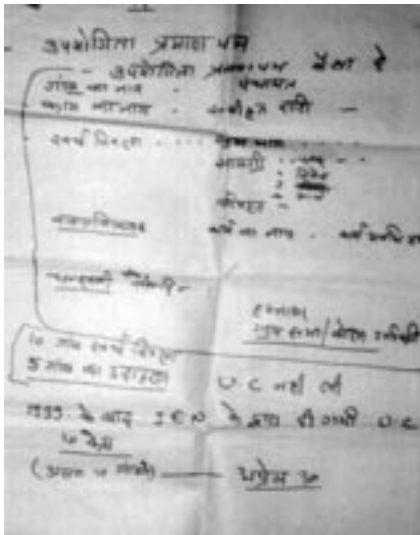
	List of MFP made by Village Assembly	State List of MFP
1.	Tendu Patta (Tendu Leaves)	Tendu Fruit but NOT Tendu Leaves
2.	Aritta	Aritta
3.	Behra	Behra
4.	Amla	Amla
5.	Lanwara	Not included
6.	Seetafal (Custard Apple)	Not included
7.	Bans (Bamboo)	Not included
8.	Gondh (Gum)	Not included
9.	Shahad (Honey)	Shahad (Honey)
10.	Ratanjot	Not included
11.	Imli (Tamarind)	Not included
12.	Karanji	Not included
13.	Mahua	Mahua flowers
14.	Dolma	Not included
15.	Jamun	Jamun
16.	Safed Musli	Not included
17.	Bila	Not included
18.		Mom (wax)
19.		Chaal (bark)
20.		Oil Seeds
21.		Junglee Jhadiyan (Wild shrubs and branches)
22.		Khirmi
23.		Molsari
24.		Aam (Mango)
25.		Ber
26.		Lissora
27.		Ghas (Grass)
28.		Chara (Fodder)
29.		Palas Leaves

Discuss ‘live’ problems

An ongoing problem or difficulty attracts maximum attention – much more than examples from the past. It is an art to bring out the legal aspects of these situations vividly. The Tribal Self-Rule Law, for example, mandates that all ‘minor minerals’ are to be under the control and management of the *Panchayat* (local government) at an appropriate level, with a detailed procedure to determine where this responsibility should lie. But one *Gram Sabha* (village assembly) had another interpretation of this provision, charging a tax on

Figure 3: Utilisation certificate: a legally robust model developed by village people

First draft



Utilisation Certificate

Name of the village and Village Council

Name of the Works

Approved Budget

Description of Expenses

- Cost of labour
- Material used
 - o Stones
 - o Cement
 - o Others
- Transport
- Actual state of work
 - o Name of work
 - o Date of completion

Signature of Village Assembly

Final draft

Utilisation Certificate

Sr. No. Letter ----- Certified that out of Rs. -----

1. No. amount & dated ----- of grant-in-aid sanctioned during the year ----- in favour of ----- under the Rural Development Department letter number given in the margin and Rs. ----- on account of ----- unspent balance of the previous year/s sum of Rs. ----- has been utilised for the purpose of ----- for which it was sanctioned and that the balance of Rs. ----- remaining un-utilised on the ----- end of the year shall be utilised during the next financial year with the consent of the Village Assembly of the local self government.

2. We the members of the Village Assembly certify that we are satisfied that the conditions on which the grant-in-aid was sanctioned have been duly fulfilled/are being fulfilled and that we have exercised the following checks to see that the money was actually utilised for the purpose for which it was sanctioned.

Kinds of Check Exercised¹:

1. -----
2. -----
3. -----

Signature of the Village Assembly representative

Members of Village Assembly -----

1. _____
2. _____

Dated -----

¹ For instance, in case the money had been sanctioned for construction of a road, the kinds of check would be seeing whether adequate quantity and quality of material had been used, whether the workers had been paid adequate daily wages, whether the work had been done within the time frame and whether the end product was workable.

One of the interactive sessions with policy makers. From right to left: Shri BS Chandana – Director ASTHA; Shri Dilip Singh Bhuria – Chairman, Scheduled Castes and Scheduled Tribes Commission, India and Chairman of Bhuria Committee (based on which Tribal Self Rule Law (TSR) was enacted); Shri BD Sharma – one of the key architects of the law on TSR; Sanjay Upadhyay – Managing Partner, ELDF.



Photo: ELDF

sand and gravel under the impression that such a levy was within their powers. When confronted with this legal problem, representatives of the *Gram Sabha* acceded to its illegality.

Similarly, what distinguishes ‘major’ from ‘minor’ minerals was unknown to the members of the *Gram Sabha*. This experience prompted us to the next rule of thumb of the legal literacy session – that it is not enough just to identify an illegality but equally important to find solutions. The new emphasis on problem solving made the literacy sessions much more meaningful and rewarding.

Find solutions

If an apparent illegality is brought to light, the next step is to look for solutions. With a supportive law such as the Tribal Self-Rule Law, in most cases illegality is not intentional but due to lack of information about the law. In the above example about minor minerals, the levy on sand and gravel are in the Tribal Self-Rule Law’s spirit of control and management of community resources by the community. In fact the Tribal Self-Rule Law empowers the *Gram Sabha* to act on its own without state enforcement on many issues. So we

created space in the legal literacy sessions for people to discuss creative ways to use the various provisions that directly involve community action.

For example, for activities sanctioned to *Gram Sabha* level, a certificate of utilisation of funds has to be given by the *Gram Sabha*, but there are no set formats for these certificates. During the sessions we worked together to work out an understandable but legally robust format that can be used within and between villages (Figure 3). This certificate automatically has legal power, now in the hands of the *Gram Sabhas*.

It became clear through the literacy sessions that finding solutions to existing problems was a great way of communicating the importance of how the law affects communities at large.

Link with the law makers

Another innovative approach that was discovered was to bring the participants attending such literacy sessions to meet the policy makers behind the law (Figure 5). We invited the architects of the Tribal Self-Rule Law to discuss the intentions, objectives and history of the legislation. Bringing the law

makers and a sample of those who are affected by the law together on one platform is an excellent way to help both groups to benefit from each other's experience. The law makers get feedback on how the law is working on the ground, while the tribal representatives are exposed to the whole process of making and implementing legislation.

Potential for replication elsewhere?

Most legal literacy sessions in India are carried out on a more formal basis: e.g. lecture series on predetermined topics at established training centres, which are conducted by legal experts who are primarily academic and not practitioners.

The *Panchayat Shivar* experience has been encouragingly successful. There is lots of space for experimenting in other areas of natural resource management. Of course, the situations described here are specific in statute, geographical location and community profile. However this need not be a barrier to replication. All that is required is to follow the rules of thumb and adapt to a particular situation. ELDF has continued legal literacy sessions on a demand-driven basis. Currently we are working in Orissa. In our experience, *Panchayat Shivar*, or interactive legal literacy sessions, are one of the best and most effective means of taking laws to the people who are most affected by them.

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REFERENCES

Enviro-Legal Defence Firm (2005) *Legal literacy camps: Panchayat Shivar*. Power tools series.
 Enviro-Legal Defence Firm, Noida: India and
 IIED: London, UK. www.policy-powertools.org