



ACCESS TO JUSTICE (NEJK) PROJECT

CONFERENCE ON

**RIGHTS OF MARGINALIZED SECTIONS INCLUDING
SCHEDULED TRIBES IN NORTH EASTERN STATES**

VENUE: - HOTEL IMPHAL, IMPHAL, MANIPUR

29th SEPTEMBER 2016

ORGANISED BY:

**ACCESS TO JUSTICE-GOI-NEJK,
DEPARTMENT OF JUSTICE,
MINISTRY OF LAW AND JUSTICE,
GOVERNMENT OF INDIA**

BRIEF ABOUT THE CONFERENCE

Introduction:

Department of Justice (DOJ), Ministry of Law and Justice, Government of India is implementing a project on “Access to Justice in North Eastern States and Jammu and Kashmir” under 12th Five Year Plan. It’s being implemented in the eight states of North East namely Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura and Jammu & Kashmir. The project seeks to address the needs of ordinary persons, particularly those that are poor and vulnerable and who don’t have strong lobbies to ensure that their rights are guaranteed. It mainly focuses on supporting justice delivery systems in improving their rights are guaranteed. It mainly focuses on supporting ordinary people to demand improved services and to access their rights and entitlements.

A series of Conference has been planned under this Project. In this series, Department of Justice has organized a Conference on “**Rights of Marginalized sections include Scheduled Tribes in North eastern States**” in the state of Manipur on 29th September 2016 at Hotel Imphal, Imphal, Manipur. **The main objectives of the conference were as follows:**

- To understand issues faced by selected marginalized community
- To look into challenges in accessing justice n context for North Eastern States and
- To identify future interventions to ensure access to justice to all

Participants:

There were total 41 participants in the conference. The participants included representatives from various concerned Departments & Commissions like Department of Law & Justice, Department of Social Welfare, Department of Education, Department of health, Tribal Affairs and Hill Department, State Women Commissions etc. It also included academicians from Government Law College, State Aids Control Society (SAC) and civil society organizations of North Eastern States.

Welcome Remarks:

Shri Atul Kaushik, Joint Secretary, Department of Justice

He welcomed the Chief Guest, Shri Justice N. Koteswar Singh, Executive Chairperson, Manipur State Legal Services Authority and delegates present in the conference. He gave introduction of the Department of Justice's (DOJ) Access to Justice Project in North Eastern States and Jammu & Kashmir (A2JNEJ&K). He shared that since the inception of the project till date; DOJ has seen significant infrastructural development in Judiciary in North Eastern Region. While speaking about the activities taken up by A2J NEJK Project, he mentioned that a *Need Assessment Study to find gaps in legal empowerment of North Eastern States* was carried out and one of the key recommendations was to focus on scheduled tribes in North Eastern States. He insisted on the need to sensitize Scheduled Tribes on their legal rights. While giving due respect to the customary practices of adjudication, he highlighted the need to spread awareness about benefits of formal justice system among the Scheduled Tribes, so that the people using informal justice system could be mainstreamed into formal justice system.

He hoped to have fruitful discussions and to come up with recommendations that can become part of the activities that will be undertaken under A2JNEJ&K Project in the future. He requested the Chief Guest to guide and give inaugural remarks.

Inaugural Address

Shri Justice N. Koteswar Singh, Executive Chairperson, Manipur State Legal Services Authority

He greeted all the participants and thanked Department of Justice for giving him an opportunity to address the gathering and share his thoughts. He was of the opinion that A2J NEJ&K project is very relevant and welcoming. According to him, the region has remained in isolation for a long time but presently things have changed and the region is in limelight. He discussed about past life of North Eastern people where they had very less participation in national life. But as per his observations, with changing time contribution of NE people has become more constructive and meaningful. Shri Justice Singh has pointed out major two challenges in accessing justice in North Eastern States, firstly, the physical distance, and secondly, the lack of awareness amongst the people especially the poor & marginalized. He believed that with better connectivity, infrastructure and with improved legal awareness, people of the region will lead dignified lives. He called all the concerned stakeholders (including Judiciary, Executive, Civil Society Organizations, concerned departments etc) to bring concerted and coordinated efforts to secure access to justice. He has given reference of recommendations of NALSA Committee formed to review rights of Scheduled Tribes. The key suggestion was to intensify the legal awareness programmes in tribal areas by various modes. He applauded the contribution made by Para Legal Volunteers and Legal Aid Clinics in reaching to the masses in remotest area of the region. He asked NGOs and concerned departments directly working on issues related to various marginalized communities to concentrate on enabling weaker section of society through legal empowerment and also communicating all the schemes and entitlements. He mentioned about the limitations of SLSAs while functioning in North Eastern States and quoted recent separation of Judiciary as a reason of such limitations. During his speech, he reiterated the importance of concerted & coordinated efforts to bring meaningful result. He concluded his speech by saying that customary institutions are needed to be sensitized with humbleness to make them understand about the larger system and constitutional scheme.

FIRST SESSION

Socio legal Status ST in North Eastern States: Role of Commissions, SLSA, CSOs.

The objective of the first session was to initiate discussions on the issues relating to rights of the Scheduled Tribes (STs) in North Eastern States in various fronts of life.

Panel:

Mr. Rajesh Deoli, Project Manager, DOJ

Advocate Rita Boro Bora, Assam, State Legal Services Authority

Mr. W. Joy Kumar, Secretary, Human Rights Initiatives

Ms. Panti Gonmie, President, Ronmei Lu Phum Women Organization

Chaired by: Mr. Atul Kaushik, Joint Secretary, DOJ

To begin the session, Mr. Rajesh Deoli, Project Manager, A2J NEJK Project highlighted the grey areas in the lives of Scheduled tribes in North Eastern States. He also introduced the legal framework on rights of scheduled tribes in India. He focused on lack of access amongst STs in relation to education rights, health rights and other basic rights. There was low conviction rate in cases of crime committed against SC/ST. He mentioned about the gender gap in terms of school education enrolment. There were gender issues identified under the DOJ's Needs Assessment Study to identify gaps in legal empowerment of the people in North Eastern States. It was found that prevalence of domestic violence; eve teasing and discrimination in terms of right to succession are among other major issues relating to rights of women in North Eastern States.

After this brief background, JS welcomed all the panelists and set the context. He first called upon Advocate Rita Boro Bora, Assam State Legal Services Authority to present her perspective on rights of scheduled tribe in North Eastern States in light of statistics and issues mentioned in the background presentation. She presented a paper on rights of scheduled tribe concerning Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. During her presentation, she focused on the issues relating to implementation of the Act.

Secondly, the Chair invited Mr. Ch. Momon Singh, Member, MSLSA to speak on the role of State Legal Services Authority to promote the rights of scheduled tribes in North Eastern States. He explained about the NALSA (Protection and Enforcement of Tribal Rights) Scheme, 2015, NALSA (Legal Services to the Victims of Drug Abuse and Eradication of Drug Menace) Scheme, 2015, NALSA (Legal Services to the Workers in the Unorganized Sector) Scheme, 2015, NALSA (Victims of Trafficking and Commercial Sexual Exploitation) Scheme, 2015 and also contribution of Para legal Volunteers, panel lawyers through legal aid clinics established in Hill Districts to ensure rights of Scheduled Tribes.

After the brief background on role of Legal Services Authority, Mr. W. Joy Kumar, Secretary, Human Rights Initiative was called upon to provide civil society perspective on rights of scheduled tribes in North Eastern States. He indicated that the challenges coming in front of marginalized community in Manipur are many. Firstly, there is absence of State Commission for Schedules Castes/ Scheduled Tribes in the respective States. But they can send grievances to the National Commission for Scheduled Caste

and Scheduled Tribe. He expressed unhappiness with appointment of retired officers, negligence of authorities while responding to the cases, and suo-moto drafting of complaints on behalf of aggrieved citizens by Commissions etc. There is also lack of legal awareness amongst Scheduled tribes about the commissions or Legal services authorities. The institutions are not proactive with people. Regarding LSA, there is a need of transparency in SLSAs as there is no budget or activity document available on its website. He opined that recitation of the law cannot change attitude of the people. As per his experience more and more awareness should be done to result into attitudinal change of the people. SC/ST atrocities cases are delayed for long. SLSA is providing incompetent lawyers, improper counseling, inadequate services due to which marginalized suffer. Government Departments need to be made aware of basic legal literacy.

Ms. Panti Gonmie, President, Rngmei Lu Phum Women Organization focused the discussion on gender issues in traditional institutions. She expressed that tribal women are deprived in participation in decisions making in the society, they don't get any reservation in local institutions. She also spoke of King Chilli Case (Chilly Grower) who was raped but her case is pending in High Court and there was no compensation granted to her, she has received Rs. 70,000 an interim relief by department of Social Welfare. Four minor tribal girls were raped by she was threatened by them for naming them. Tribal Hill women have so many problems coming down from far places to departments due to customary practices and violence within the society; they have to go from table to table and don't get justice. According to her, legal empowerment of women is very important. She also expressed her fear when rapist is a police officer and she could not do anything other than be in trauma and sit quietly.

The Chair concluded the session by stating that State Government needs to publicize the schemes for marginalized groups and also make available infrastructure to access these services with one door system.

Thereafter, the floor was opened for discussions.

Mr. Ch. Momon Singh shared that SLSA cannot help in cases of rape as such cases are taken up by State Public Prosecutor. He informed that Victim Compensation Schemes are generally handled by Department of Home Affairs/ Department of Social welfare. The Chair told that in cases where rape victims are aggrieved and are not getting compensation in their states, they can also send grievance to the Ministry of Home Affairs and the Department of Justice.

SECOND SESSION

Socio Legal Status of Women in North Eastern States: Role of Women Commissions, SLSA, CSOs.

The objective of the session was to initiate discussions on the gender issues in context of the Scheduled Tribes (STs) in North Eastern States.

Panel:

1. Dr. Farida Shah, Member, Manipur State Commission for Women
2. Ms. Ivyyreen Warjri, Mission Director, State Resource Centre for Women
3. Ms. I. Tariang, Member Secretary, Meghalaya State Commission for Women

Chaired by: Mr. Vinod Tripathi, Director, DOJ

The Chair introduced all the panelists and asked Ms. Dr. Farida Shah to speak on issues relating to status of women in North Eastern States and Role of State Commission for Women. She gave a background of women rights issues in the region. Later, introduced everyone with State Women Commission's work and reflected that Commission fails to act due to lack of infrastructure and resources. There is absence of any legal advisors to resolve issues relating to women rights issues. It was told to the participants that remote hill districts have to be prioritized as they are unable to bring their grievances due to inaccessibility.

Ms. Ivyreen Warjri presented her view on socio-legal condition of women in north eastern States. In her presentation she mentioned that conviction rate is not convincing in cases relating to crime against women in the region. She has told that Meghalaya is a matriarchal society but still due to lack of legal awareness and restriction of women to be part of durbars (local traditional justice institution), there is violation of women rights in the society. She told that women do not have ability to take decisions in the society due to societal behavior. She offered some solutions to these issues like behavioral change through gender mainstreaming etc. She expressed that women have to go to so many institutions and if we want her to suffer less then we need to have convergence between all concerned departments. She also told that empowerment will only come if there are concerted efforts not only from women but also from men side.

The Chair added to the presentation and put some light on victimization of women during investigation process so suggested sensitization of Police officers and also highlighted the problems faced by Hill women due to traditional institutions so proposed sensitization of traditional institutions too. He called upon Ms. I. Tariang to present challenges the women commission face while taking cognizance of women rights violation cases. She was of the view that there are major cases of crime against women in Meghalaya. She also told that people need to know about democratic institutions to access justice. So, in this regard, Meghalaya State Women Commission is conducting various trainings and awareness programmes on legal literacy.

Thereafter, the floor was opened for discussions.

Mr. Ch. Momon Singh shared about the SLSAs plan to open legal aid clinics in Manipur State Commission for Women. He also talked about the role of SLSA in securing justice for under trial women prisoners.

THIRD SESSION

Socio-legal status of Person with HIV/AIDS in North Eastern States: Role of SLSA, Department of Health/NACO, CSOs.

The objective of the session was to initiate discussions on the status of persons with HIV/AIDS in context of North Eastern States and Challenges they face while accessing the basic services and justice delivery system.

Panel:

1. Mr. Madhusudana Battala, Population Council, New Delhi.
2. Ms. Zamthcanniang Thomte, Finance Officer, Manipur-State Aids Control Society

Chaired by: Mr. Vinod Tripathi, Director, DOJ

The Chair introduced the panelists of the session and asked Mr. Madhusudana Battala to present a background presentation on rights of persons with HIV/AIDS and Population Council's programmes on Aid prevention etc. He highlighted issues relating to persons with HIV/AIDS like discrimination while accessing justice through democratic institutions and social stigmas leading to violation of their fundamental rights. He also told that sex workers, transgender, MSM are targeted beneficiaries of the Aids prevention programmes etc. He shared about the contribution of the national and international NGOs in preventing AIDS in India. He stated that in the beginning of the AIDS control programme, they were clueless about ways to fight for their rights but as there were no special legislation for the HIV/AIDS population, they were left with one solution i.e social mobilization. Through the social mobilization they were made aware about their rights as a citizen and to equal access to departments etc. so that they can enjoy their most basic rights. He has also shared South India Model of HIV/AIDS prevention through which they were able to reduce rate of persons living with HIV/AIDS.

He suggested that PLVs (Paralegal Volunteers) needs to be educated about the HIV/AIDS and also training them on rights of HIV/AIDS persons will help in securing rights of the persons with HIV/AIDS in the society.

With this, Ms. Zamthcanniang Thomte was invited to speak about the State Aids Control Society, Manipur. She talked on role of SAC like Counseling, providing free medicine and also shared about the legal literacy programme run by the organization especially with targeted group. She focused on people with HIV/AIDS who are mostly homeless due to address they are away from so many schemes and entitlements. She also talked about the discrimination and social stigma the community faces in all walks of life. There is a lack of social entitlements for widows and SSWs. There is no separate programme for affected and effected children from HIV/AIDS.

Thereafter, the floor was opened for discussion.

The Chair concluded by stating that there is a need of more social awareness about HIV/AIDS and also the Department needs to be sensitized about the issue so that there are no cases of discrimination and social stigma.

Way Forward

While contextualizing the conference subjects, issues, challenges, Mr. Atul Kaushik (JS) reiterated remarks made by J. Koteswar, where two major challenges to access to justice were highlighted. He cheered words of J. Koteswar about the purpose of legal empowerment is to do overall development of North Eastern people. While connecting access to justice with right to dignified lives of citizens, JS shared latest study on pending court cases released by an organization based in Bangalore; where it was found that end of pendency of cases in India will contribute 0.48% to the GDP of the country. He also talked about another study which says that after realization of access to justice there will be improvement in GDP for upto 2%.

Among other issues, the MSLSA and State Women Commission, Manipur showed their willingness in the past to put one panel lawyer for the purpose of women commission but due to unavailability of room

and furniture it couldn't be made possible. As a result, good steps taken by two authorities failed to improve access to justice for women. He opened the floor for further suggestions and discussions on whether there is a lack of proper planning of infrastructure while it is designed or there is wrong approach while we utilize the infrastructure. After a long discussion and inputs, he shared following recommendations:

- He mentioned that there is a need to have proper planning and designing of schemes which must be as per need of end-user
- There is a need to have more interaction between the people for whom the scheme/entitlements are prepared and who formulate these schemes
- Targeted interventions needs to be the core of every social/infrastructure schemes from the beginning of the formulation of schemes/project
- To outreach maximum people there is a need to develop IEC material or schemes related information in local dialects and as per need of the end user

He has also asked all the stakeholders to share success stories or best practices in doing legal empowerment to Department of Justice, which will be taken to masses.

Thereafter suggestions were invited from the participants and dignitaries. Among others, most important suggestions came forward from the participants which could be taken up are as follows:

- There is a need felt in North eastern States to give legal empowerment trainings to the women
- State Women Commissions recommended that there is a need to intensify legal awareness programmes.
- Sensitizing society on HIV/AIDS to minimize social stigma and discrimination
- Issues relating to access to justice needs regular intervention and sensitization among people to create demand for rights and entitlements.
- There is a need to create a common understanding about law, where the decision about a point of law is sandwiched between judicial orders and instructions issued by Government.
- Commission needs to do a need assessment study of their mandated marginalized community in their selected districts. After getting recommendations, *Access to Justice Scale* could be developed, a kind of guidelines to check whether all marginalized communities are getting access to all democratic institutions without any discrimination.
- SLSA needs to create batches of Para Legal Volunteers with specialization in each marginalized community's issues and their rights in North Eastern States.
- Creating acceptability amongst tribal institutions that are practicing customary rules and traditions through sensitization programme on principles of natural justice and Constitution of India.

Vote of Thanks

The conference was concluded with the vote of thanks by Ms. Premlata Kaushik, Under Secretary, DOJ. In her concluding remarks she thanked all the dignitaries for participating and specially thanked Hon'ble Justice Mr. N. Koteswar Singh, Executive Chairperson, Manipur State Legal Services Authority and Joint Secretary, DOJ for major contribution in the conference.