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INVESTIGATING VIOLATIONS OF THE HUMAN RIGHT TO FOOD IN WEST BENGAL AND ORISSA (INDIA)

Report and Recommendations
of the International Fact Finding Mission
December 2005

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INVESTIGATING VIOLATIONS OF THE HUMAN RIGHT TO FOOD IN WEST BENGAL AND ORISSA (INDIA)

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1. Introduction

1.1. Hunger and Poverty in India

An estimated one-third of the world's poor population lives in India. India is classified by the Food and Agricultural Organisation (FAO) of the United Nations, as a low-income, food-deficit country. A brief look at the statistical data makes the picture clear. 21 percent of the population in India suffers from hunger and malnutrition[1], while 57 million children are malnourished and make up a third of the world's 146 million undernourished children[2]. 47 percent of the malnourished children are under the age of five years.[3] India has the highest level of child malnutrition in the world, higher than most countries in Sub-Sahara Africa.[4] One in three women is underweight and is therefore, at the risk of delivering babies with low weight.[5] Nearly a third of children are born underweight (30 percent), which indicates that their mothers themselves are underweight and undernourished. Malnutrition also increases during early childhood, particularly for girls, reflecting persistent social discrimination against girl child.[6]

After 59 years of independence, India, which is the home of 350 million hungry people in the world, is far away from eradicating hunger and malnutrition. Hunger scenario in India is marked by contradictions. The production of food grains in the country increased from 50 million tons in 1950-51 to around 211 million ton in 2001-2002, a sufficient amount to feed everybody in the country. India has managed to maintain a constant high level of food grains reserves. But the fact remains that 30 percent of Indian population live on 1700 Kcal per day much below the minimum requirement of 2100 calories.[7]. Greater part of the Indian population is still poor, with 28.6 percent living below the national poverty line[8] and 80 percent

[1] FAO, State of World Food Insecurity 2004.

[2] United Nations Children's Fund (UNICEF) report titled "Progress for Children: A Report Card on Nutrition" May 2006

3 Ibid

[4] UNDP, Human Development Report 2005.

[5] UNICEF report May 2006.

[6] E/CN.4/2006/44/add.2 20th March 2006, Report of the Special Rapporteur on the Right to Food, Jean Ziegler, Mission to India (20th August – 2nd September 2005)

[7] FAO 2004

[8] UNDR, 2005

living on less than US$2 per day.[9] This means that a large part of the population cannot afford adequate food to maintain a healthy and sustainable life.

The Government of India has made international commitments and designed different social welfare schemes[10] to ensure people's access to food. India has very progressive legislations and mechanisms to fight back hunger. Despite existence of such provisions the state mechanisms often fail to ensure food security and the human right to adequate food of those, most in need.

There exists a big gap between the policies of ending hunger and their implementations. Due to which the poor and deprived communities in India continuously struggle for survival. Different degrees of chronic and endemic hunger are prevalent. Several assessments show that the bulk of the government funding does not reach the rural areas directly due to various leakages in the transition. The social welfare schemes experience multiple problems like poor implementation, under utilisation and diversion of stocks, discrimination in distribution, irregular and untimely supports, corruptions, biased political influences at grassroots etc.

Hunger and starvation is more prominent in rural areas in India and the urban poverty in most cases is predominantly due to the fact of impoverishment of rural poor, which forces the poor to migrate to urban areas in search of subsistence livelihoods. Almost 80% of people suffering from hunger and malnutrition still live in rural India. Hunger in India has a strong caste and class dimension. Disadvantaged social groups like Schedule Castes (Dalits) and Schedule Tribes suffer from chronic malnutrition and hunger. The National Human Rights Commission Reports state that incidence of poverty among Dalits is 36 percent while 46 percent of Schedule Tribes population suffer from hunger and malnutrition.[11]

Poverty and hunger are inseparable and are strongly marked by class dimensions. For example the workforce in unorganised and informal economy are more prone to hunger and starvations. 92 percent of the total workforce in unorganised sector has low irregular incomes[12] and do not have access to any social security benefit or legal protection. West Bengal and Orissa are two eastern states of India where poverty and hunger problems are deep rooted.

There are some important pockets of hunger in eastern India like the Koraput-Bolangir-Kalahandi[13] districts of Orissa, Sunderban and Pashchimanchal of West Bengal. The state of West Bengal is well known for its agrarian economy. 72 percent people of West Bengal live in rural areas and majority of them depend on agricultural activities for their livelihood. West Bengal has a population of 83 million (Census 2001), 32 percent of the population[14] live below the poverty level and the majority of them live in rural areas. The Scheduled Castes, Scheduled Tribes and the minorities account for more than half of the population in West Bengal and they represent the most vulnerable and poorest groups.

Natural disasters like flood and cyclones further worsen the situation of poverty and hunger in these pockets. Among various reasons of hunger and starvation, eviction due to the development projects like expansion of industries and mining activities, is very prominent and has resulted in chronic food insecurity. Women are particularly vulnerable to food insecurity due to increasing discrimination against them in terms of wages and absence of due recognition of their work.

Orissa has a population of 36.71 million (Census 2001). According to the planning commission nearly 49 percent of the people in Orissa live below poverty line (all India estimate is 26 percent) and the per capita income of the state is the lowest among the Indian states, except Bihar. In the last 50 years as a result of various development efforts and economic liberalisation, the peoples control over and access to land water and forest has drastically reduced.

It is estimated that in tribal areas only 5 percent people have access to subsidised food (under Public

[9] World Bank 2005 World Development Indicators

[10] Social welfare schemes like Annapoorna Yojana Antyodaya Anna Yojana Family Benefit, Scheme Integrated Child Development Scheme, Maternity Benefit Scheme, Mid-Day Meal Scheme, Pension Schemes, Targeted Public Distribution Scheme have been formulated to ensure the right to food.

[11] National Human Rights Commission Reports (NHRC) 2003.

[12] This statement is made by the National Centre for Labour (NCL), which is the federation of unorganized sector workers. In: Labour File. A Monthly Journal of Labour and Economic Affairs, p. 19, op. cit. Published by Centre for Education and Communication, New Delhi, India. (NCL further states that 'India has a total working population of 317 million workers. About 290.2 million (92% of the total workforce) are employed in the unorganized or informal sector).

[13] KBK region is worst affected from hunger with 87% people living under BPL[13].

[14] Population of West Bengal 2001 census is

Distribution System) aimed at poverty alleviation, despite the fact that 49% of tribal people suffer from hunger and malnutrition in the state. The common property resources in Orissa have also decreased steadily from 20.39 percent in 70-71 to 15.54 percent in 200-2001.[15] The major factors contributing to this process is large scale privatisation of natural resources and the role of multi and trans national companies which have intensified due to the liberalisation of the Indian economy and increasing integration with global market. The workers in the unorganised sector in Orissa are most vulnerable to hunger as the state has the lowest wage rate in India (INR 18 in agriculture and INR 21 in Industry, for women average wage is INR 15).[16]

1.2. Policy

Minimum wages
There is no uniform and comprehensive wage policy for all the sectors of the economy of India. Wages in the organised sector are determined through negotiations between the employer and employees. The minimum wage act 1948 was primarily designed to protect workers in the unorganised sector, where labour is vulnerable to exploitation, due to illiteracy and lack of bargaining power. In India around 65% of the national income is contributed by the unorganised sector however there is no clear definition of the unorganised sector. One parameter of the unorganised sector is that the workers are not able to organise themselves to pursue common objective. There exists no consensus on the National minimum wage and states usually decide their own minimum wage. In the foundry sector the minimum wage is under discussion with negotiation between the government and the foundry owners to fix the minimum wages. Presently the average wage of a foundry worker is anything between 40 to 100 INR[17].

Land reform policy
Land is a state issue in India; therefore state governments formulate acts, rules and regulations regarding land. Land reform in India was started in 1960's. Under the land reform policy excess land or the ceiling surplus land from big landowners was acquired by the government to be distributed to the landless. This land owned by the government was called Khas land. In Orissa there are policies for the distribution of Khas Land to the landless and marginalized communities. Each of the landless families is entitled to get 4 decimals of Khas land. However, land reform was never effectively implemented in Orissa as in most of the Indian states.

Policy for victims of river erosion
The government has several relief programmes for natural calamity. Relief funds are provided for victims of disasters by the state administration, local administration and the Prime Minister. Relief is usually provided based on the urgency and seriousness of the disaster. The government of India has formulated a policy for natural disasters. These policies not only provide immediate relief but also facilitate long term rehabilitation to secure people's livelihoods. River erosion is not treated as a natural disaster. Neither the government of India or West Bengal has a policy for victims of river erosions. This gap in policy makes it very difficult for the erosion victims to claim their rights.

2. Objectives and Methodology

2.1. Cases investigated

FIAN International and FIAN West Bengal jointly carried out an international fact finding mission (FFM) in the states of West Bengal and Orissa in Eastern India from the 1st to the 9th of December 2005.

The main objective of the FFM was to investigate and verify cases of alleged violations of the human right to adequate food in West Bengal and Orissa. The international fact finding mission investigated three cases of alleged violations. The cases included:

- Access to Land on Dandi Island in Orissa
- Implementation of minimum wages in the foundry sector in Howrah
- Displacement due to river erosion in Malda in West Bengal

FIAN International (FoodFirst Information and Action Network) is the human rights organisation working for

[15] Paper presented at the conference Livelihoods and Poverty Reduction: Lessons From Eastern India, 25-27 September 2001, by Rekha Panigrahi, Vasundhara, Orissa.

[16] The structure of wages in India 1999
Puja Vasudeva Dutta, Poverty research Unit at Sussex, PRUS working paper No. 25, 2004 Poverty and
Sustainability: Achieving the double bottom line in Micro finance The Case of CYSD/Prayas (Koraput), India By Anup Dash, Utkal University, Bhubaneswar, India 2003

[17] INR is Indian Rupees

the right to feed oneself of those threatened by or suffering from hunger and malnutrition. It was founded in 1986, and has members in more than 50 countries. The aim of FIAN is to contribute the world over to the implementation of the International Bill of Human Rights. FIAN has consultative status at the UN.

FIAN International promotes the fundamental human right to adequate food which is enshrined in the International Covenant on Economic, Social and Cultural Rights of the United Nations. FIAN informs victims about their rights, alerts the general public about violations of these rights and campaigns for the termination of such violations. FIAN also provides training and advocates for the advancement of the right to food in national and international law

Objectives

The objectives of the international fact finding mission were to;

- Investigate and verify the alleged violation of the right to feed oneself of the 154 families settled on the Dandi Island in Orissa.
- Investigate and verify the alleged violations of the right to food and feed oneself of the victims of river erosion in Malda in West Bengal.
- Verify and highlight the non implementation of minimum wages and social welfare benefits in the foundry sector in Howrah in West Bengal.
- Raise international and national awareness of the violations of the right to food in West Bengal and Orissa, by visiting affected communities and public authorities and spreading the gathered information afterwards.
- Sensitise the government authorities about their obligations under right to food and strengthen the vulnerable groups to claim their rights through the publication of the FFM report.

Methodology

The fact finding team met in Kolkata on the 30th of November. On the 1st of December a preparatory meeting was held. From the 2nd until the 8th of December 2005 the teams conducted field visits. The FFM met with different concerned people in the field; the victim groups, local and state authorities, media persons and other voluntary organisations. Participatory observation, dialogue, interviews and survey methods were used to gather relevant data during the mission. Some interviews with the workers in the foundry sector in Howrah were conducted in the presence of the owners or contractors.

Interviews were conducted in Bengali, especially with the victims groups in Malda and Howrah. Hindi and English were also used in interviews with authorities and support groups. Translations were facilitated whenever required. The names of the persons interviewed are not revealed in this report for security reasons. Exceptions are made for state officials and support groups' who consented to their names being quoted.

The cases investigated:

Team A: Access to Land on Dandi Island in Orissa

Participants:
Dr. Ujjaini Halim, Ms. Parama Ukil and Ms. Debayani Bose.– FIAN West Bengal
Dr. Neetu Sharma – FIAN Delhi Office
Ms. Annick Honorez – FIAN Belgium

Resource persons:
Mr. Gangapada Adhikari from the Institute for Motivating Self Employment (IMSE) and
Mr. Harinarayan Mahanti from East Coast Fish Workers Union (ECFWU)

Interviews:
– With villagers on the Dandi island
– With local support groups: Institute for Motivating Self Employment (IMSE) – Mr. Harinarayan Mohanty, Mr. Gangapada Adhikari, Partha Sarathi Datta,
– Mr. Sankar Bhera Orissa branch, East Coast Fish Workers Union,
– Indian Federation of Toiling Peasants (IFTOP)
– Dandi Bachao Committee (Save Dandi Committee).
– Journalist – Samay newspaper,
– Mr. Sudarshan Jana [political leader]
– Mr. Jamshed Ali Khan, Rahman Khan a local activist
– Mr. Niranjan Parida –Advocate,
– Mr. Sambhu Mohanti associated with Rural Exploitation and Atrocities Forum
– Mr.Bhubananada Das, lawyer
District Magistrate, Baleshwar Mr.Appan Aou

Team B: River erosion in Malda

Participants:
Dr. Ashwini Mankame – FIAN International
Ms. Michaela Magerl – FIAN France
Dr. Pramila Kumari – FIAN Andhra Pradesh
Ms. Arpita Ghosh and Mr. Chinmoy Ghosh – FIAN West Bengal

Resource persons:
Mr. Monotosh Saha – Ganga Bhangan Pratirodh Action Nagorik Committee
Dr. Anuradha Sengupta – Reader, Malda Women's College, Geography Department,
Dr.Kalyan Rudra – Professor, Sri. Chaitanya College Habra (Calcutta University)

Interviews:
– Mr. Kedar Nath Mandal (President), Mr. Tarikul Islam (Treasurer), Sanjay Basak (member) of Ganga Bhangan Pratirodh Action Nagorik Committee
– Swami Divyananda, Ramakrishna Mission Malda Town
– Mr. Debanjan Roy, Block Development Officer
– Mr. Abhijit Chowdury, District Magistrate
– Mr. Gautam Chakraborty Sabhadhipati, Zilla Parishad Malda
– Assistant to the head of the Irrigation and Waterways Department,

Interviews with victims of the erosion at – Roadside settlement in Bablabona, Bangi Tola, Chetrutola rehabilitation colony, Khatiakana char land, Pagalghat Panchanandapur, Behari Tola, Abir Tola,

Team A and B:
Minimum wages in the foundry sector in Howrah
Participants:
Dr. Ashwini Mankame – FIAN International
Ms. Michaela Magerl – FIAN France
Dr. Pramila Kumari – FIAN Andhra Pradesh
Dr. Ujjaini Halim, Ms. Parama Ukil and Ms. Debayani Bose, Ms. Arpita Ghosh – FIAN West Bengal
Dr. Neetu Sharma – FIAN Delhi Office
Ms. Annick Honorez – FIAN Belgium

Resource persons
Mr. Nirmalendu Dey – FIAN West Bengal

Interviews:
Labour contractors, the manager of Ramkrishna Iron Works Ltd, the owner of Eastern Engineering Corporation, General Manager of the District Industries Centre of Howrah – Swapan Kumar Das, Deputy Labour Commissioner, the Chamber of Industries and Commerce, Workers in the foundries in Howrah.

2.2. Analytical Framework: Obligations under law – International and national

Obligations under international law

The right to food is enshrined in the Universal Declaration of Human Rights[18] and the International Covenant on Economic, Social and Cultural Rights. In its General Comment No. 12 of 1999 on the right to adequate food the UN Committee on Economic, Social and Cultural Rights has presented a detailed and authoritative interpretation of the provisions of the Covenant. The Comment establishes in the normative content of paragraphs 1 and 2, Article 11 of the ICESCR that: "The right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement". The core content of the right to adequate food includes the following: "The availability of such food in ways that are sustainable and that do not interfere with the enjoyment of other human rights" (General Comment 12, 8). General Comment No. 12 sums up in paragraphs 14–20 the obligations and violations concerning the human right to adequate food. In correspondence with the nature of the obligations, it states: "The nature of the legal obligations of States parties are set out in article 2 of the Covenant and have been dealt with in the Committee's General Comment No. 3 (1990). The principal obligation is to take steps to achieve progressively the full realization of the right to adequate food. This imposes an obligation to move as expeditiously as possible towards that goal. Every State is obliged to ensure for everyone under its jurisdiction access to the minimum essential food which is sufficient, nutritionally adequate and safe, to ensure their freedom from hunger" (GC 12, paragraph 14).

"The right to adequate food, like any other human right, imposes three types or levels of obligations on States parties: the obligations to respect, to protect and to fulfill. The obligation to respect existing access to adequate food requires States parties not to take any measures that result in preventing such access. The obligation to protect requires measures by the State to ensure that enterprises or individuals do not deprive individuals of their access to adequate food. The obligation to fulfill (facilitate) means the State must pro-actively engage in activities intended to strengthen people's access to and utilization of resources and means to ensure their livelihood, including food security. Finally, whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States have the obligation to fulfill (provide) that right directly. This obligation also applies for persons who are victims of natural or other disasters"(GC 12, paragraph 15).

It is made clear that the obligation to respect the realisation of the right to food implies that the State parties to the ICESCR must identify and supply the vulnerable populations in their jurisdiction, using strategies that ensure at a short, medium and long term the ability of these people to realise and enjoy their rights by their own means. Even if States face severe resource constraints, caused by economic adjustment, economic crisis or other factors, the vulnerable population has the right to be protected through social programmes aimed to improve access to adequate food and satisfy nutritional needs. All States have the obligation to immediately enforce the core content of the right to food, which means, that every person must, at least, be free from hunger.

In this respect, paragraph 17 of the General Comment No. 12 states: "Violations of the Covenant occur when a State fails to ensure the satisfaction of, at the very

[18] Article 25 of the Universal Declaration of Human Rights states:" Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including adequate food, clothing, housing and medical (...)." This is further developed in article 11 of the ICESCR (International Covenant on Economic, Social and Cultural Rights: "1. The States parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.
2. The States parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed: A) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources."

least, the minimum essential level required to be free from hunger. In determining which actions or omissions amount to a violation of the right to food, it is important to distinguish the inability from the unwillingness of a State party to comply. Should a State party argue that resource constraints make it impossible to provide access to food for those who are unable to secure such access by own means, the State must demonstrate that every effort has been made to utilise the resources at its disposal in an effort to meet, as a matter of priority, those minimum obligations. This follows from Article 2.1 of the Covenant, which obliges a State party to take the necessary steps to the maximum of its available resources, as previously pointed out by the Committee in its General comment No. 3, paragraph 10. A State claiming that it is unable to carry out its obligations for reasons beyond its control therefore has the burden of proving that this is the case and that it has unsuccessfully sought to obtain international support to ensure the availability of the necessary food" (GC 12, paragraph 17).

India ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) on July 10th, 1979. India is therefore obliged to respect, protect and fulfil the right to food for all its citizens.

Obligations under national law

Article 21 of the Constitution of India guarantees a fundamental right to life and personal liberty. The expression 'Life' in this Article has been judicially interpreted to mean a life with human dignity and not mere survival or animal existence. In the light of this, the state is obliged to provide for all those minimum requirements which must be satisfied in order to enable a person to live with human dignity, such as education, health care, just and humane conditions of work, protection against exploitation etc. The right to food and water are inherent to a life with dignity, and Article 21 should be read with Articles 39(a) and 47 of the Indian constitution to understand the nature of the obligations of the State in order to ensure the effective realization of this right. Article 39(a) of the Constitution, enunciated as one of the Directive Principles, fundamental in the governance of the country, requires the State to direct its policy towards securing that the citizens, men and women equally, have the right to an adequate means to livelihood. Article 47 spells out the duty of the State to raise the level of nutrition and the standard of living of its people as a primary responsibility. The citizen's right to life enshrined in Article 21 is to be ensured by the fulfilment of the obligations of the State set out in Articles 39(a) and 47. The reading of Article 21 together with Articles 39(a) and 47, places the issue of food security in the correct perspective, thus making the Right to Food a guaranteed Fundamental Right which is enforceable by virtue of the constitutional remedy provided under Article 32 of the Constitution.

Since 2001 the case of Peoples Union of Civil Liberties vs. Union of India and others (Writ Petition [Civil] No. 196 of 2001) is pending with the Supreme Court of India focusing on how the right to life addresses the right to food. The final judgement of the case is still awaited. However, several important interim orders have been passed that fulfil the people's right to food.[19]

3. Access to Land in Orissa

3.1. Background

Dandi is a small island in the coastal belt of northern Orissa. Over the years, huge amount of silt, accumulated by frequent flooding in the catchments of the river Subarnerekha had been deposited in the confluence of the river to form a fresh piece of land. This land is locally named as Dandi dweep (Island). Dandi Island exists since 1972, and as per legal provision comes under the exclusive legislative and administrative jurisdiction of the federal state of Orissa. The Island is five km in length and two km in width. It was devoid of any human habitation except for the first settler in this island since 1978, Mr. Muruli Behera formerly an inhabitant of Bichitrapur village. From 1982, gradually, several economically poor and socially marginalised families from nearby areas, some severely and adversely affected by the frequent floods of the river Subarnarekha; started migrating and settling down in this island.

Dandi Island is surrounded by the Bay of Bengal in the south and by the river Subernarekha in the south west. A small tributary of Subernarekha encompasses the other sides of Dandi, giving it the character of a remote island. Dandi Island comes under the purview of Jaleshwar Tahasil (Revenue area) and belongs to Mouza Khari Bil 2 and is officially defined as reserved land which is not categorised for profitable agricultural use (Sanrakhita Baluchara).[20]

The main village on Dandi Island is Subarnapur, a name given by the villagers themselves but not officially recognized by the local authorities. The villagers and their support groups informed the FFM that the government does not want to fulfil the right of

[19] On 28th November 2001, the Supreme Court passed an interim order with three significant components:
- it converts the benefits of eight nutrition-related schemes into legal entitlements;
- it directs the state and central governments to adopt specific measures to ensure public awareness and transparency of these programmes; and
- it directs all state governments to begin cooked mid-day meals for all children in government and government-assisted schools within six months.

The eight schemes are as follows: Annapoorna Yojana Antyodaya Anna Yojana Family Benefit, Scheme Integrated Child Development Scheme, Maternity Benefit Scheme, Mid-Day Meal Scheme,
Pension Schemes, Targeted Public Distribution Scheme

[20] Although officially it is denied as revenue land there is a conflict between the revenue and forest department over the land.

the settlers on the island and therefore did not recognise the name given by the villagers. Subarnapur is home to 154 families (total population 778, male 341, female 332, and children 105) of marginal fisher folk. The settlers on the island largely depend on sea fishing for survival. Majority of them work for other big fishermen and do not own boats or fishing nets. Some of the villagers also gather minor forest produce or shells and crabs.

3.2. Findings

Dandi as an island has been in existence since the last 25 years, the largest and oldest village on the island is Subarnapur. People have been settlers on the island for more than twenty years now. This village is not recognized by the state as an official village/hamlet. There is also a dispute between the revenue and forest department on whether the island is revenue land or forest land. Official records show that Dandi belongs to `Khas`[21] category or known as `Reserved Baluchara'. The dispute concerning which department (i.e. Revenue or Forest department) has the real authority to decide the utilisation/distribution of land in this island has not been resolved. This dispute increases the vulnerability of the inhabitants of Dandi who regularly face harassment from both the revenue department and the forest department. The FFM team was informed that sometimes the inhabitants had paid fines to the revenue department for encroachment and the forest department had served them with eviction notices. The villagers received such notice of eviction from the forest department in January 2001.

The consequences of the lack of recognition are far reaching. The inhabitants of this village are deprived of their basic rights as citizens of India. They do not possess the titles to the land they have settled for more than 20 years now. They are not included in any government programme which would ensure their right to food e.g. public distribution system, employment guarantee act, old age pension, etc.[22] There are no basic amenities on the island and the government does not make any efforts to provide them to the people. The hamlet does not have a school for children living their, neither does it have any medical services, water or sanitation facilities made available by the state. Scarcity of drinking water and poor quality of the water available in the island is an everyday problem for the villagers, in particular for women who have to cover a distance of approximately 8 to 10 kilometres everyday to bring potable water for the families.[23]

The FFM was informed that the government rejects the people's demand for the right to access to land by stating that the people settled on Dandi are outsiders and do not belong to an officially recognized village. The FFM pointed out to the local authorities that the villagers on Dandi possessed voter identity cards. These cards are provided only to Indian citizens and proof of their Indian citizenship. The local government maintains that the voter identity cards of the villagers in Dandi have addresses of other villages from where they migrated to Subarnapur village in Dandi and are illegal settlers, therefore they would not be included in any government programmes or enjoy and rights.

The villagers are faced with the threat of eviction from the Island.[24] The FFM learnt that several commercial projects like salt factory and tourism projects[25] are being initiated or planned to be established on the Dandi Island, thereby aggravating the threat of evictions.[26] The Chief Minister of Orissa has announced that a government sponsored tourist resort would be developed on the island to expedite the economic growth of the area. The FFM observed that the villagers

[21] Under the land reform Khas land was meant to be distributed to the landless.

[22] During interviews with the inhabitants of Dandi a middle-aged fisherman from Subarnapur Dandi stated that, "the villagers do not have Ration Cards and they do not get any benefit of government schemes meant for the poor". The other villagers who were present supported him.

[23] The nearest village of Dandi in the mainland is Ranasingapur, which is approximately five km away. The nearest hospital/ medical unit is 20 km away and the nearest government sponsored free school for the children of these poor families are also 20 km from the island, therefore making it almost impossible for the villagers to access these facilities.

[24] Evictions notices given to the inhabitants in 2001.

[25] As per CRZ (Coastal Regulation Zone) notification of the Government of India and also according to Supreme Court Ruling in 1997, no permanent construction could be made within 500 m from High Tide Level of the coast for industrial or development purposes. Therefore any plan of construction for developing a tourist resort in Dandi would be the violation of CRZ notification.

[26] Information received so far indicates that two salt businesses – Vinayak Salt Factory and Chandaneshwar Enterprises are applying for lease of the island. The government will either lease or sell the land for the Salt factory.

of the island will be evicted to make way for the implementation of the commercial projects.[27]

The villagers informed the FFM that sometimes the police and the forest guards[28] come to the island and harass and threaten them and stop them from collecting minor forest products. The forest guards alleged that the villagers illegally cut trees and the villagers have accused the forest guards for conniving with outsiders to smuggle wood from the forest. The guards also levy them with illegal taxes[29] for being 'allowed' to live in the island and often assault the women and children in the village. Whenever villagers try to protest the guards threaten to evict them. The villagers have testified that forest guards have burnt down their huts and have harassed the women. The FFM observed that lack of title to the land they have settled make the villagers vulnerable to threats and harassment.

If the island is developed for commercial projects then the villagers and people of Dandi will be evicted. Since they do not possess titles to the land, they inhabit they will not get any compensation or rehabilitation package to be resettled. The government will take steps to evict them without paying any attention to how they will earn a living or how their access to sea will be guaranteed to ensure a decent livelihood.

The District Magistrate (DM) of Baleshwar Mr. Appan Aou in his meeting with the FFM dismissed the claim of the people as being citizens of India and called them illegal temporary settlers and anti-social elements from Bangladesh. When the issue of voter identity cards was brought to the district magistrate's attention he refused to acknowledge this as fact. Moreover, he could not shed light on the status of the land in Dandi and clarify – whether it was revenue land or forest land and came under the revenue or forest department. He also expressed that he did not know about the alleged process of the government to lease out Dandi for commercial purposes. He informed the FFM that he was not aware of any assaults against women and children taking place in Dandi. The DM informed that the villagers in Dandi could get land entitlements and could be officially recognized only if they prove that they live in this island for more than 20 years, because the people who have migrated prior to 1980 are entitled to certain rights and the principles relating to the land entitlement are comparatively more relaxed.

The FFM observed that the local government officials themselves are of different opinions regarding the status of the island as both the revenue and the forest departments are making claims for the island. Though the initial research and the settlement records of Revenue Inspector and Tahasildar of the area[30] indicate that Dandi belongs to baluchara that is Khas land under the revenue department. The DM of Baleshwar, however, states that he was not aware of the status of the land. As a result no measures of redistribution of the land among the landless as per the khas land redistribution policy[31] of Orissa are taken.

Existing policies of land reform in Orissa make the provision of the distribution of Khas Land to the landless and marginalized communities. Each of the landless families is entitled to get 4 decimals of Khas land. Therefore the landless villagers of Dandi are entitled to get land under the land reform act on a priority basis and the land cannot be leased out for business purposes denying the rights to the landless. The evidence collected from various government departments reveals that some villagers of Dandi had already registered their protests to the Tahasildar against the proposed lease and the Tahasildar conducted on spot enquiries in response to the complaints[32]. However, the Tahasildar's reports were in favour of the companies as he justified the lease by mentioning that development of industries would create employment opportunities for the Dandi people. The FFM however observed that the immediate impact of the lease or sale of land would be eviction[33] of the villages and no rehabilitation would be offered to them and employment opportunities will not provide livelihood source to all the villagers.

[27] The political rivalries between the parties having commercial interest in the island worsens the situation for the inhabitants of Dandi as they are threatened and harassed by all the commercial, political and governmental interests involved.

[28] They are employees of the forest department.

[29] These are not prescribed by any law in India

[30] copies available with the fact finding team

[31] Land Policy of Govt Of Orissa

[32] This is particularly interesting as a Tahasildar can conduct such an enquiry on Revenue land only but the DM has refused to accept Dandi as revenue island.

[33] The Orissa Prevention of Land Encroachment Act, 1972 (Amended in '82) prohibits unauthorized encroachment of government land and settlement of 2 acres of unobjectionable land (government wasteland) with eligible (landless) beneficiaries. This Act has explicitly mentioned that landless households would enjoy certain exclusive benefits and would be given priority in land redistribution and rehabilitation. The Dandi villagers (even if considered as encroachers) are entitled to get those benefits, but receive none in reality, on the contrary they face threats of evictions.

3.3. Violation of the right to feed oneself

The FFM found that the villagers or inhabitants of Dandi do not have access to land despite the government policy of land reform and living on the land for more than twenty years. The government of Orissa has failed to implement the land reforms in the state and thereby violates the villagers' right to feed themselves. In the absence of land titles the inhabitants of Dandi live in constant fear of eviction and loss of livelihood opportunities.

Absence and lack of implementation of social welfare measures in Dandi is in breach of the fulfilment bound obligation of the state under the right to food and the right to life under article 21 of the Indian constitution and the Supreme Court orders. The villagers/ inhabitants are denied access to government social welfare schemes, as well as PDS on the pretext that they are illegal settlers.

Failure of the state to provide the villagers with safe drinking water which is physically accessible, is in breach of the fulfilment bound obligation under the human right to water and Article 21 of the Indian constitution.

Initiatives of the state government to lease out the land to private companies for commercial purposes and the resultant evictions of the inhabitants of Dandi without compensation and rehabilitation would be in breach of the respect and protect bound obligations of the state. Leasing out land in Dandi for commercial purposes violates the CRZ Notification, Forestry Act and Biodiversity Act 2002.

Attacks of the forest guards (government employee) on villagers are breaches of respect bound obligations of the state under the human right to physical integrity.

Finally the unwillingness of the local state authorities to share information regarding the status of Dandi Island with the villagers and their support groups, despite several requests and applications, violate the Right to Information Act of India,2005.

4. Implementation of Minimum wages – Foundry sector in Howrah

4.1. Background

Howrah, known as the twin city of Kolkata, is a small industrial township about 22kms from Howrah Railway Station. The city once famous for its foundry[34] industry (with 700 foundries flourishing in the pre independence era), has seen gradual closure of many small industries due to government's decentralizing industrial policies, badly affecting the foundry sector in Howrah. Between the early independence period and the beginning of liberalisation in 1990's, the government implemented several measures to provide fiscal, credit and infrastructural support to the small industry sector, which also included foundries. Although their survival was ensured during this period, little attention was paid to improve technology or operating practices.

Faced with open market competition, this sector could not compete with cheap multinational products. Lack of investment prevented modernization, sustainable employment and security of livelihood to the employees. An estimated 500 foundries have been closed till date and several sick foundries are on the verge of closure. Neither is there an effort made by the government to develop policies to deal with this sick industry and to ensure implementation of minimum wages, nor is there any comprehensive plan to help the industry compete in the times of globalisation.

4.2. Findings

The FFM team began its mission with a visit to the Ram Krishna Iron works ltd. The foundry, owned by an aged lady, is managed by her grandson. This particular foundry, performs only the melting portion of the whole process. The manager described to the FFM the changes in the foundry industry and reported that the actual melting orders decreased by half due to closures and privatisation of several public sector industries, a regular business client for the foundries in Howrah. Pressure due to compliance with pollution control norms, high prices of transportation, high raw material costs and price fluctuations are other factors responsible for the loss in business volume, reducing the number of foundries in Howrah from 340 to 180. The manager was reluctant to talk about the labour issue to avoid problems related to Employees' State Insurance (ESI) and other benefits that the foundry owners have to provide to the labourers.

[34] Foundries can be broadly classified into ferrous and non ferrous foundries. Ferrous foundries can be further divided into iron foundries and steel foundries. Iron foundries make iron castings. The castings are used in a variety of applications like man holes covers, pipes etc

The foundry has a permanent staff of twelve persons (which included security and administration). The number of workers varied according to orders and are employed through contractors, as per need and for the duration of delivering an order. This system of employment does not provide any security for the workers. But the employers can not afford to run a small scale sick industry at a persistent loss only to provide a source of living for a handful of workers. Contract labour is used because when there is no work it is too expensive to keep permanent workers on the payroll. The FFM observed that contract system prevents the setting up of a trade union. Consequently, labourers do not have a voice to demand better pay or working hours and conditions.

The FFM was informed that on an average, a male worker earns INR 80–90 per day, some workers earned as low as INR 40 per day, for 8 hours work with one hour lunch break. Due to the strenuous requirements of the work, very few female workers are employed in the foundry sector and usually earn only half the average salary that a male worker earns. The government has proposed a minimum wage for the foundry workers but the foundry association has opposed it. The Howrah Foundry Association, together with the Indian Foundry Association, have challenged the minimum wage proposed by the government in the court, which is pending. Therefore neither the foundry association nor the government authorities wanted to discuss about the proposed amount with the FFM.

The FFM noted that only the permanent staff gets social benefits such as ESI that the workers in the foundry sector are entitled to. The Employees' State Insurance is a scheme that is run by the Labour Department. In case of a medical emergency, charges for the doctor are covered, as well as a payment if the worker cannot go to work for medical reasons. The ongoing contract labour system has reduced the worker–owner tensions and the frequent trade union movements in the foundry sector. The workers have now accepted the norms of contract labour system and have submitted to all the hardships to earn a wage that does not permit a decent living.

The FFM had a brief meeting with a labour contractor. The labour contractor receives the orders from companies to hire the labour force. The workers he hires earn between INR 50 to 100 a day, depending on their skills. They earn at least INR 500 a week. Women usually earn less around INR 300, as they do easy work. Easy work meant work that did not require hard physical labour. So based on the contractor's assessment and decision the women were paid less. The contractor himself decides the wages to be paid to the labourers. His margin is 20 percent of the wages earned by the worker. He does not provide the workers any benefits like ESI.

Some persons work on daily wage basis while some on piece rate. Piece rate is one way to give lower wages to the labourers. The majority of the workers work through labour contractors, around 20 to 22 persons per contractor. Until now, the labourers have not received any social welfare benefits and in case of accident they will not get any medical care.

The Eastern Engineering Corporation was founded in 1976 and made good profit until 1994–95, after which the number of orders started to decrease. Modernisation of technologies in telecom or railways for instance, decreased the use of iron pieces, which were produced by the foundries. The profits made nowadays are marginal. The owner was of the opinion that the revival of the foundry industry is possible, but it will require considerable investments, new markets, new technologies and good product quality. Government has not helped to keep up with the changes in the market. There is a considerable problem of price fluctuation of raw materials; government could play a role to stabilise the prices.

The owner of the Foundry informed the FFM team that the workers in his foundry are directly employed and not through contractors. There are around 88 labourers; half of them are casual workers. The foundry does not follow the wage structure proposed by the government but pays a minimum wage of INR 90. The workers earn INR 100 to 115 per day. They work 8 hours with one hour break. All the workers get the benefits they are entitled to, even the casual workers. Three female workers work in the foundry. They are employed only in order to help them earn a living. They perform lighter work and earn INR 40–43 per day. The FFM however observed that women were paid below the minimum wage on the pretext that they did "easy" or "lighter" work. During the interview with the foundry labourers, they indicated that they did not get wages and the casual workers did not get the benefits as claimed by the foundry owner.

The FFM met with the General Manager of the District Industries Centre (DIC) of Howrah. The DIC is in charge of monitoring the small-scale industries (SSI). West Bengal is the only state to have two Departments for industries: 1) the large and medium size industries are overseen by the Commerce and Industries Department, 2) the SSI is administered by the Cottage and SSI Department. There are 15 000 registered SSI in the Howrah district, employing about 190000 people. 236 out of the 320 foundries in West Bengal are located in Howrah, are generally SSI.

According to the General Manager, the evolution of new technology has not been inducted in the foundries enabling the foundries to compete in the global market. Government has sponsored an "assistance program" to help adopt new technologies. But this modernisation actually is in the area of pollution reduction and does not enhance the functioning of the foundries.

There is also a plan to relocate the foundries to develop a cluster based on a Danish model. The government has requested the industries to participate. It is a Government of India, Infrastructure Development Program, which comes under environment management, and is implemented by a committee set up by the government of West Bengal. Land acquisition is a problem for this plan, because industries will have to acquire the land themselves while the government can only help with the negotiation. The plan also includes rehabilitation of the skilled and unskilled workers in the new cluster. But it is doubtful how the workers will be rehabilitated since there is no concrete plan for the same.

The General Manager of DIC also informed the FFM that there is a legal minimum wage which is "applicable but not enforceable". It is not possible to monitor this legal provision for each worker. The minimum is about INR 164 per day, including in kinds.

Although the applicable minimum wage exists, it is not enforceable. The FFM team also interviewed the deputy labour commissioner who said that violations of minimum wages happen quite often. To control the wage system, the wage inspectors goes to the spot to inspect. Often foundry owners hire less casual labourers on the day when the wage inspector visits.[35] Often the wage inspector can not do much as the papers presented by the owners are correct, but perhaps manipulated as it is quite clear that the wage act is being violated. In this case the wage inspector tries to sensitise the owner, as filing a case would harm the labourer. Negotiation with the owner is better. Sometime there are cases of manipulation of workers. They may not be aware of their rights, or are not literate. It is often difficult to reach out to the workers, because they are afraid to speak out . Legally, men and women have to be paid the same amount for the same work but this is not followed in the foundry sector.

The deputy labour commissioner informed the FFM that a new scheme has been introduced for the unorganised sector: the State Assisted Scheme of Provident Fund for Unorganised Workers (SASPFUW). Workers subscribe INR 20 per month, through a collecting agent and the government adds the same amount. The INR 40 are deposited and the workers get interests for the sum. The scheme applies for workers from 18 to 55 years. There are 47,000 beneficiaries in Howrah from the scheme. After 3 years the workers can withdraw the money. However, the FFM noted that lack of awareness amongst the workers was reason for the poor response and poor implementation of the scheme.

Contract system

The FFM was informed that the wage payments to the workers have to be made in the presence of the principal employer. He has to register workers and wages. The contractor has to have a licence. The wage inspector can check this licence. The contractors apparently can fail to pay minimum wages but it is difficult to check it. The inspector agrees this is a problem, but does not know what efficient measures can be taken against this. Fines exist but are not implemented. There is a need for awareness programs.

If a factory is locked up (temporarily), the government has to pay the permanent workers INR 500 per month. This money is taken from the provident fund. If a factory closes down (definitely), the employer has to pay a final compensation to the permanent workers, according to the Industrial Dispute Act 1948.

The FFM also held a meeting with the Chamber of Industries and Commerce. The Chamber interacts with the government to defend the interests of the owners. The owners present were from the organised sector. They said they do not use casual labourers, and that very few foundries do. They do not employ female workers either. They opined that the contract system is positive. There is a contract labour law in preparation that will help to clarify the system. They work with piece rate. They say it is more profitable also to the workers, who can make 3000 monthly, means 2700 with schemes deposits (like ESI). The daily minimum wage system is not appropriate; this is why they have opposed the governmental proposition.

In the meeting with the workers the FFM verified the following; the workers were quite afraid to speak; their jobs are very insecure and they can get in trouble if the foundry owners know of their meeting with the FFM. The wages earned are not sufficient to feed their family, educate the children, or for health needs. In other industries, the situation is better, but they

[35] There was indication of corruption involved as the foundry owners always come to know about the inspector visits in advance due to good contacts.

cannot shift because their skills are suitable only in the foundry sector. It is a dangerous work and the work load is heavy. The working conditions are not good. Additionally there is big supply of young workers, who can be employed for less money, and for more working hours. This supply demand ratio is against the interests of the foundry workers.

In the interviews with the workers the FFM noted that not all the workers get the social benefits such as ESI, although they are legally entitled to it. It largely depended on the employer to get ESI. Some workers used to be permanent workers but after their foundry closed they did not get a contract. No trade unions were set up in the foundries, so there was no space for the workers to organise and claim their rights. They got payment depending on how many units or pieces of the product they produced.

Another workers interviewed was paid daily wage of INR 55 for casting. He was in the contract system. He does not get any social welfare benefit. He has worked in the foundry sector since 45 years. He used to be a permanent worker, but his foundry closed down. He received the final compensation. He has 5 children who are not educated. He is the only earning member of the family. He was of the opinion that the job insecurity increased in the foundry sector in last 10 years.

The diet of the workers include low quality rice, chapatti, vegetables; proteins once a week; two full meals one in the morning and another in the evening, at noon something light. The cost of living increased but their wages had not . They have ration cards but do not get much out of them. If they fall ill, they do not get paid in general. Sometimes negotiation with the contractor is possible. Regarding the re-location, they have heard the owners have already booked land. They do not know if they will be able to follow. Not all can afford to send their children to school. They are not aware of the State Assisted Scheme of Provident Fund for Unorganised Workers (SASPFUW) scheme and as of now no awareness program has reached them. Sometimes information reaches those who are close to political parties. The wage inspector has never visited them.

The female workers in the foundry have been specified with modelling sample dices and service valves but are kept at bay from casting. The women are paid less than their male counterparts for similar work, working conditions and working hours. There are no provisions of maternity benefits. Many women are paid less because they do some lighter work than men.

One aspect that requires serious attention is that of the health of the foundry workers. They have become susceptible to certain forms of occupational health hazards. Their health has been suffering massively specially during casting. Many have reported of suffering from chronic asthma, lung infection, burns, arthritis and poor eyesight.

The workers are debarred from participating in any decisions and policies that affects them. Moreover, they do not have been rendered inaccessible to information regarding occupational health and financial assistances.

4.3. Violation of the right to feed oneself

On the one hand labour law – and in particular minimum wage legislation – is an important component to safeguard workers' right to feed themselves. On the other hand this sort of legislation is only useful in a context where the respective work places are economically viable. States are therefore under an obligation to take reasonable measures safeguarding the viability of an industry – or to offer alternative means of decent employment. Moreover, the human right to food is unconditional and states are duty-bound to guarantee a minimum food income – even without work – or to supplement wages to the extent that minimum wages are ensured.

In the case at hand there is evidence that minimum wage legislation has been flouted with impunity. In some instances, however, industries might not be economically viable and therefore minimum wage legislation de facto not enforceable, without risking the closure of the industry. In those instances the state may not have taken the policy measures necessary to safeguard the viability of the industry. Further analysis, however, would be necessary to find out to what extent this was in fact a violation of the right to food. Such an analysis would have to take into consideration the options and resources available to the state for such policies.

There is no doubt, however, that the human right to just working conditions have been violated in many of the industries visited. Most worrying are the generalized violations of the human right to work and to food, which make persons put up with these working conditions for lack of alternatives. This goes beyond the obvious failure of the state to enforce existing social security legislation and provide sufficient social security to the workers' families allowing them to feed themselves. There are reasons for concern that current social welfare schemes and employment schemes may be insufficient to guarantee the human right to feed oneself – even if properly implemented – and that further legislative initiatives need to be undertaken.

The government of West Bengal's efforts to cope with the shift over in the industrial milieu has been rather poor and slow and no efforts were taken to modernise the foundry sector and make it competitive in the changed industrial and economic scenario. The loss in profits in the foundry sector has led to the owners saving costs on labour. They appoint labourers through labour contractors instead directly employing workers on a permanent basis. Labourers' contractors usually find persons who will work at very low wages. By contracting labour through contractors the foundry owners do not have to pay for the workers social

benefits or minimum wages as per law. This leads to the exploitation of the workers as the working conditions are usually not good and the workers work for 8 hours a day or sometimes more for a nominal pay of INR 40/- to INR 100/- per day which is totally insufficient to meet the family expenses and also below the statutory minimum wage. The daylong hard work without any type of social security poses continued threats to the survival of the foundry workers. There are very few women working in the foundry sector. They are however always paid less than the men on the pretext that they do little work and easy work. By law both men and women have to be paid equal minimum wages.

A cursory visit to the foundry and the skeletal figures show the poor nutritional and health-hygiene standard of the workers in the foundry sector. Moreover there is ignorance of rights and programmes that the workers can avail.

5. Displacement due to river erosion in Malda

5.1. Background

The district of Malda covers an area of about 3713 sq. km and is located between Darjeeling, a popular hill resort in the north and Kolkata city in the south demarcated by the state boundary of Bihar and Jharkhand in the west and International boundary of Bangladesh in the east. The districts of Dinajpurs and Murshidabad form its northern and southern limits respectively. The River Ganga is the main river in the district, covers a length of about 180 kms and forms the south western boundary. The district has an agricultural economy, even though rapid industrialisation has taken place in the last decade. The majority of the population depend on agriculture for their livelihoods. The district is particularly famous for mango orchards and sericulture industry.

Every year during the rainy season (June to September), the livelihoods of thousands of people in Malda are destroyed and they are displaced from their lands and homesteads due to the recurring floods and erosion by the River Ganga.[36] The River Ganga is slowly shifting its course in Malda district. By this meandering phenomenon, the river erodes vast tracts of land in this region, depositing soil on the opposite riverbank adjacent to the states of Bihar and Jharkhand. In the last three decades a few new islands (chars) have been formed in the river.

The soil in Malda is predominantly of alluvial type, consisting mainly of fine silt and sand and some clay at the top. As a result the soil has no cohesion, and as soon as the river forms deeper channels along the left bank, the bed material is scooped up. Apart form the changing course of the Ganga, the government policies of river water management and construction of the Farakka barrage[37] are also cited as causes of the large-scale erosion of the river banks and frequent flooding in Malda for more than ten years now.[38]

Out of a total of 15 blocks[39] in district Malda – Kaliachak-I, Kaliachak II, Manikchak, Ratua, Harishchandrapur II and some parts of English Bazar are the most vulnerable zones in terms of flood and erosion. The worst-hit areas lie in the unprotected zone on the left bank of the river stretch between Bhutnidiara to Panchanandapore[40] in the Kaliachak II block.

[36] According to the Ganga Bhangan Pratirodh Action Nagarik Committee in 2001 around 2500 families, 15,000 people were rendered homeless in the erosion

[37] The Farakka Barrage, completed in 1974, A barrage is a type of dam used to impound water. Dams are man-made barriers across a watercourse, designed to hold back and re-channel water, usually resulting in the formation of an artificial lake.

[38] Several experts allege that the government policies of river water management have been faulty and the Farakka Barrage is a cause of the high level of erosion. The victims of erosion in Malda mostly identify the Farakka Barrage for their plight. An official report has also noted that "the problem manifested itself to forcible magnitude during the post-Farakka condition". However, investigating the role of the Farakka Barrage is outside the purview of the FFM and therefore the report will not comment on it.

[39] Block is an administrative unit of the district.

[40] Ganga Bhangan Pratirodh Action Nagarik Committee a peoples movement for their life and livelihood is gaining momentum in this Panchanandapore.

Between 1931 and 1978, a total of 14,335 hectares of land in Malda was eroded by the river.[41] From 1980 to 2003 around 4,900 hectares of land was eroded by the Ganga. Over the last three decades 500 sq. kms of land and about 2 million people, from about 40 village Panchayats in Kaliachak-I, Kaliachak-II, Manikchak and English Bazar block counting around 2 million people have been directly or indirectly affected by flood and riverbank erosion. In the last three decades as many as 22 mouzas[42] of Manikchak, Kaliachak I&II have been obliterated from the map of the district. This includes 80 thousand persons rendered landless due to river erosion. Around four hundred thousand (4lakh) people have lost their livelihoods, settlements and prime agricultural lands. The dimension of loss of livelihoods could be seen in the loss of 61.10 sq. km agricultural lands, 25 sq.km orchards, 85 sq. km settled land, 7 sq. km wet lands and 13 sq. km other lands totalling 191.10 sq. km in last 10 years. Agricultural land and crops worth several millions, livestock of 700 million INR and other productive resources were lost due to erosion. According to government records nearly 45 million people are left without shelter.

5.2. Findings

"Flood causes destruction but does not take everything away; when the water recedes one can go back to the land and build ones life again. But with erosion everything is lost. The land disappears and the people are left with nothing no land or home to go back to" – the FFM was told by a victim of the Ganga River Erosion.

The condition of the victims of flood and river erosion is very precarious. The effects of river erosion on the victims are tremendous and permanent. In a rural economy, based primarily on land, landlessness poses a major threat, leading to further marginalisation and pauperisation of the people. The major impact found here is that before land erosion and loss of land, usually the people tilled their own land but after loss of land they now had to work as day labourers or undertake petty service activities which did not pay much. The loss of land and homestead leads to loss of livelihood resources and pauperisation. The FFM met with several victims of erosion, some of them had moved six to eight times as their land was eroded by the Ganga. However, until now only some victims of the erosion in 2003 have been provided with partial rehabilitation.[43]

The Chetrutola Rehabilitation colony was setup after the erosion in 2003. In 2003, the finance minister of West Bengal promised an INR 30 million rehabilitation package for the erosion victims. Every family rendered homeless in 2003 received INR 5000. The money received was spent by the erosion victims to purchase plots of land in the rehabilitation colony. Around 900 families have settled in this colony. Some victims inhabiting the rehabilitation colony informed the FFM that they did not get the money themselves but the money was directly given to the owner of the land on which the rehabilitation colony was constructed.[44]

The rehabilitation colony does not have any sanitation facilities, no school, and no health centre. In the rainy season, the land (which is lowland) gets muddy and marshy. Under these conditions there is risk of diseases. Most of the people living in the rehabilitation colony have lost their land several times and mainly work as labourers. Many do not have ration cards, which will enable them to buy grains from the public distribution system at subsidised rates. The people appeared severely malnourished – especially the aged in the colony. There are no programmes being implemented to support the old and infirm. Within the next 2-3 years, the land where the rehabilitation colony is built will be washed away in the erosion. The government and the people settled there know this yet, this land was proposed for the rehabilitation colony.

Most of the victims of erosion had received some basic minimum relief immediately after the erosion but have never received any rehabilitation except for the victims of the 2003 erosion. Scores of huts[45] have been set up along the state highway that passes through Bangitola in the Kaliachak area. More than 3,000 families affected by erosion mainly in the Panchanadapur belt have settled in this area. The population here is quiet dense. Due to limited resources and lack of land there are often tensions between the old erosion settlers and the new ones. Some of the land is government owned land and some privately owned. There is no record of the number of people inhabiting this area. But the people live under continuous threat of being evicted. The men are mostly migrant workers. Most of the people here have ration cards but the amount of grain they can avail are insufficient to feed their families[46] and some cannot afford to buy grains form the PDS because they do not have enough money.

Similarly in Bablabona, the roadside settlement houses around 350 families. The land belongs to the

[41] Vol:20 Iss:20 URL: http://www.flonnet.com/fl2020/stories/20031010002209300.htm Ravaged by a river – Suhrid Sankar Chattopadhyay

[42] Mouza is the smallest administrative unit for the collection of revenue, a village can be comprised of several mouzas.

[43] The FFM terms it as partial rehabilitation as the victims of erosion were given money to buy plots of land for houses. There was no provision for long term rehabilitation in terms of restoring livelihood resources.

[44] Questions were also raised of the amount of money spent out of the 30 million provided for rehabilitation and charges of corruption in utilizing the money.

[45] The FFM will refer to these hutments as roadside settlements.

[46] One person informed the FFM that he is entitled to 2 kg rice and 2 kg wheat a week. However, he needs 30 kg of each per month (7.5kg a week) to feed the family. Therefore feeding the family was very difficult and a source of concern for him on a regular basis.

government's public works department (PWD). The FFM interacted with several women in this settlement. One woman used to own a restaurant before being displaced by the erosion, now she binds bidis[47] for a living. Some of the other women had never worked before as they were financially secure.[48] As daily bidi binders, they earn around 15 INR to bind 500 bidis. The people engage in agricultural labour, but there are lack of employment opportunities. Due to poor economic conditions, trafficking of women, prostitution and child labour has increased. Prior to displacement, the women had never worked and were content to look after the family and home. However, now they were forced to work in the bidi making industry. Landlessness has forced women to take up the burden of providing financial support to the family and adjusting to the domestic hardships. Access to water was a problem in these settlements. The women have to usually walk for some kilometres to fetch water for the family. There is no school, no health centre and no sanitation facilities for the people of the road side settlements. Both the settlements include erosion victims from 1998 to 2005 erosion. The victims in these settlements had received some relief after the erosion but no measures for their long term rehabilitation are implemented by the government.

Some of the erosion victims had migrated as far as Mumbai in Maharashtra state, in search of work. Having lost all their belonging in the erosion, they were often branded as Bangladeshi infiltrators.

The victims of erosion and their support group reported that every year after the erosion the victims are provided the following as relief; one tarpaulin, 4 to 8 kgs of wheat and rice per family, some jaggery[49] and dry fruits, at times Khichadi (a preparation of rice and lentils) is also provided for about 7 days.[50] There are no rehabilitation measures undertaken and there is no provision to compensate the victims of erosion for the loss of their land.

When erosion takes place all of a sudden at night, people go hungry for 2 to 3 days at a stretch and instead keep busy in collecting the materials and carrying it to safer places. They do not receive any immediate relief at this point. They do not have access to safe drinking water. Stored foodstuffs usually cannot be saved during this hazardous period. There is no electricity at such times and no mode of transportation. Generally people try to save themselves and family and get to a safer place away form the eroding water. Children go hungry for days. General relief consisting of wheat rice and dry fruits is provided in two three days and are of bad quality.

The condition of families with the least resources is the most precarious as they do not have the means to shift to another place away from the eroding river. Around 150 families have taken refuge in school premises in the remains of Behari Tola. Access to the school premises is via a fragile bamboo bridge. There were around 360 shops in this area, a library, a big market place, a cooperative mini bank. Every thing now lays washed away by the water. The people informed the FFM that the Block development officer visited a couple of times, made promise of rehabilitation, but never delivered anything. When asked if they had received any money for rehabilitation some distraught victims' stated they wouldn't be living in shacks in this school premise if they had received money for rehabilitation. They mentioned they had not received anything.[51]

Apart from lack of rehabilitation, one complaint that the FFM heard from the victims of erosion was that the government did not provide any information on rehabilitation land, there was no consultation or participative process and there was no information of when and where the erosion will start. So the victims have no means to protect themselves before the erosion strikes.

The condition of the people inhabiting the Chars islands is very ambiguous. One such case is of the case of Khatiakhana char land. The char land is accessible only by boat. The char land is very fertile and cultivable due to the finer sediments of silt and clay. Paddy, pulses, vegetables, water- melons etc. are the main agricultural products. The natural pastures help to rear cattle and goats. The displaced persons rebuild their huts with corrugated tin sheets, bamboos and mud, and thatch the roof with straw. These materials, being light and not very costly, are brought from the mainland. The country boats are the main mode of conveyance, while on land bicycles and bullock-carts are used.

There is no official authority extending to this char. The people do not have any land rights or land titles on the char. It is unclear if it belongs to West Bengal or Jharkhand. Therefore conflict over the possession of land is a common feature in the social life on *Chars*. The *chars* lack facilities of sanitation, education, medical, market, and even drinking water. There are about 300 odd families living on Khatiakhana. People on chars often have duality in identity as at times they have ration cards of the Malda district authorities but they are now not accepted as citizens of the state. This situation makes life very difficult for the people living on the chars.

[47] Bidi is a kind of Indian cigarette; Tobacco is wrapped in a tendu leaf, and secured with thread at one end. Bidis are smaller than regular cigarettes; they do not have a filter.

[48] Usually women from financially secure families do not work outside the house. If the family has land they work on the family land. So having women going out for work is a sign of bad financial times.

[49] Jaggery is traditional unrefined sugar of India, usually made from sugarcane.

[50] Not every erosion victims receives all the mentioned items, some get more some less.

[51] One erosion victim mentioned that he used to work in Mumbai but now due to fear of losing his family to the eroding river he came back to be close to his family when erosion strikes again.

The members of the Ganga Bhangan Pratirodh Action Nagarik Committee informed the FFM that in 2003 a team of doctors had visited the erosion area in Panchanandapur and found that under nutrition of women and children was disproportionately high compared to other areas. They claimed that "Our government till date has not done anything" "No one wants to listen to us." Their hope is that the FFM and the report will bring attention to plight of the erosion victims and make the government to take up adequate anti-erosion measures and rehabilitate the victims as so far the government has failed to take effective measures to check erosion and to provide the promised rehabilitation.

River erosion in Malda is a yearly phenomenon. Every monsoon the Ganga River erodes the banks and there are floods at times. Erosion in Panchanandapur is going on since the last 50 years. The government does not have any record of the number of the victims of erosion and where they have resettled. The fact finding team tried to find out what measures does the government take to address the situation. The Block development officer and the head of the district authority were very forthcoming with the responses to the FFM.

The government provides several measures[52]:

- Preventive measures[53]: the irrigation department and district authorities provide for the building of boulders, embankments, to prevent erosion.
- Immediate relief to erosion victims: the Block Development Officer leads rescue actions after the erosion. The officials go to the spot, identify the victims (it takes 5-6 hours for the land to be washed away). They provide first materials for shelter (one tarpaulin sheet), then food usually rice for 15 days, then some garments.
- Immediate rehabilitation: victims are identified and listed[54] Land is identified by the government and given to the victims, as well as 5000 INR per family. At least 300 families have been rehabilitated. The land for rehabilitation is sometimes far, as it is difficult to get land (government has to acquire it). Relief is a continuous process. The people who have resources often try to shift by themselves, buy land somewhere else. It is the poor people who stay as they lack the resources to move on their own.

Regarding the long-term perspective, the view held by the state authorities are fatalistic, "We have learnt to accept the erosion, it is our fate", "and No relief can solve the problem." The authorities believe that there is no scope for a permanent solution to the erosion, only for stopping the erosion for a few months.[55]

One major flaw which the FFM observed in the entire exercise of erosion and relief measures is every year after the erosion, data is collected to gauge the extend of the erosion and its impact. Only then solutions for the following year are drafted. There is very little time for execution of preventive measures and by the time the measures are under way the rainy season begins and the work is left incomplete. As construction is still underway when the river begins to swell, the boulders each year are washed away. This enables the construction companies to get fresh sanctions for the embankments. They don't even have to provide proof of construction as they show it as "washed away". Victims of erosion and their support group alleged that there is rampant corruption in the preventive measures undertaken by the government.

The anti-erosion measures taken up by the state government include constructing spurs and embankments. The river erosion victims, their support groups, told the FFM that the spurs and the

[52] These measures are a compilation of the measures as stated by the different government officials interviewed by the FFM

[53] In 2005, 240 million were spent for prevention.

[54] There w as no laid down criteria for the identification but was done on spot; It was not clear how it was done on the spot as well as no criteria has been chalked out by the government.

[55] A permanent technical solution would cost 1600 crores. 1 crores is 10 million

embankments have failed. Huge amounts have been spend on them. Now the river should be left alone and the government should spend on rehabilitation instead.

Some victims and their support groups claimed that in implementing anti-erosion measures, corruption and politics play the spoilsport.[56] The FFM had difficulty to meet and interview the District Magistrate (DM) of Malda, Mr. Abhijit Chowdury. Prior to the mission an appointment was sought from the DM's office to which there was no response. During the mission the FFM tried to meet the DM but he was very reluctant to meet the FFM. Finally the FFM got permission to meet him but only two members of the mission were allowed to see him.

The DM listened to the questions posed to him, and replied that he needed an official written request on the organisational letter head for him to answer the questions. The DM assured the team that the human rights of the people were taken care of but was very reluctant and unable to provide any concrete information on how it was taken care of. After the interview the FFM prepared the questions as requested and sent them to the DM's office. Till date, there is no response from the DM's office.

5.3. Violation of the right to feed oneself

The victims of erosion receive relief supplies which barely last for 10 days and are clearly insufficient to fulfil the victims' right to food. The human rights obligation to respect, protect and fulfil access to food obviously also applies to the persons who are victims of natural or other disasters.[57] In India there exists a policy to rehabilitate victims of earth quakes and floods. But there is no policy to rehabilitate river erosion victims. Loss of land is the critical outcome of erosion. When land is lost to an eroding river, the victim is left with no means of livelihood. Relief packages after erosion provides immediate assistance but give no long term solution. It is therefore necessary to treat river erosion as a national calamity requiring a rehabilitation policy for the victims. The victims must be relocated and loss of land must be compensated, thereby protecting the people right to feed themselves.

The general comment No. 12 stresses in its para 15: "Finally, whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States have the obligation to fulfil (provide) that directly. This obligation also applies for persons who are victims of natural calamity or other disasters." The FFM found that the government is failing to meet this obligation in Malda.

The government welfare schemes, although existent are not implemented in the erosion areas. Moreover, the ambiguous legal status of the char land denies the people living there any access to government welfare schemes meant to fulfil their right to food. Integrated Child Development Scheme (ICDS), Annapoorna Yojana, Antyodaya Anna Yojana, Pension scheme that the state government has to implement are lacking. Access to grains from the PDS is difficult and usually grains are not sufficient for the families to feed themselves. Sometimes the erosion victims cannot afford to buy grains from the PDS. Failure to implement government welfare schemes exposes the erosion victims to hunger and malnutrition and is in gross violation of their right to food. The government should take immediate measures to resolve the legal ambiguity of the char lands, conduct a survey of the land and provide land titles to the people, implement government welfare schemes and facilitate the fulfilment of the people right to feed themselves in dignity.

In order to protect the people from the erosion, the government should make an impact assessment of the erosion on the livelihood of the people living on the riverbanks. In a participatory manner, long term solution must be formulated to protect the right to food of the people. There is an urgent need to formulate a national policy on river erosion and a special law for rehabilitation. River erosion should be treated as a national disaster.

[56] The local political leaders are siphoning off huge amounts of central funds with the nexus of state irrigation department officials and local contractors in the name of building new embankment by concrete "boulders". Building river embankments every year just before the monsoon has now become a most lucrative business for all political parties

[57] E/C.12/1999/5, 15

6. Conclusions

6.1. Conclusions of FIAN's FFM to Dandi

The FFM team makes the following observations

1. Villagers of Dandi are living under constant threats of evictions with no compensation/rehabilitation assured;
2. Villagers are living in utter poverty but no facilities like PDS or other social/food security measures are available to them;
3. Villagers are often harassed and physically assaulted by forest guards, women often become victims of abuses;
4. The village suffers from acute scarcity of drinking water and women have to cover a very long distance everyday to fetch water for domestic use;
5. No provisions made by the local authorities to recognize the village officially despite its existence for more than 25 years;
6. There is no clarity on status of the island but different vested interest groups in connivance with local state authorities are trying to take a lease on the island;
7. The land preliminarily being identified for leasing is the community grazing ground for the villagers and if their access to the common grazing ground is denied it will threaten their food security further;
8. Though entitled to receive land rights under several legal provisions of the state, landless households of Dandi have not received any land titles.

6.2. Conclusions of FIAN's FFM to Howrah

The FFM team makes the following observations

1. As the foundry sector is a 'sick' industry, unemployment is high. There is a broader question of the revival of this industry and protecting the right to feed oneself of the employees. Here, the government does not seem to take into account the problems related to the re-orientation that will be needed for the thousands of workers that are earning a living through the foundry industry.
2. The government fails to implement some of its protection-bound obligation. There is no clear minimum wage enforceable by the government. Many workers are casual labourers doing their work in very precarious conditions. The job insecurity faced by the workers threatens their livelihoods. Social safety nets are clearly insufficient.
3. Under the contract system, many labourers do not get the benefits they are legally entitled to as workers. There is a problem of awareness of the workers regarding the schemes they are entitled to. Owners are reluctant to give the benefits and complain the procedures are complicated. Authorities do not play a pro-active role; programs are run in a very insufficient way.
4. There is discrimination and under-payment of women. The situation is all the more difficult as it concerns the unorganised sector of a declining industry. However, it is clear that the government does not act to implement human rights, including the right to food, of these workers

6.3. Conclusions of FIAN's FFM to Malda

The FFM team makes the following observations

1. The fact finding mission concluded that there is no official rehabilitation policy for river erosion victims making their condition very precarious to the threat of hunger and malnutrition.
2. Apart from the immediate relief which is very meagre the victims do not receive anything from the state in the form of rehabilitation.
3. The official figures of provision of 5000 INR to each river erosion family every year is not reaching most of the victims.
4. The people have lost agricultural lands and homesteads for more than 50 years now, yet there is no concrete plan to alleviate their plight. Immediate relief packages do not provide a long term solution.
5. The people do not have access to food and food producing resources.
6. Access to water is difficult. Women have to sometimes travel long distances to fetch water.
7. There is no legal recognition accorded to char lands. These lands are no man's land, with no record of persons and families living there and no records of land. The persons living on the chars have no basic amenities and also no means to access food resources.
8. Not all the victims have the PDS cards to avail subsidised grains from the distribution system. Sometimes grains from the PDS were not available.

7. Recommendations

The FFM team strongly recommends the followings:

7.1. Recommendations on Dandi

1. Recognition of land rights of the villagers in Dandi.
2. Immediate recognition of Subanapur as a village (either revenue or forest)
3. The island should not be leased out for commercial purposes which may lead to evictions and loss of access to livelihood resources for the villagers.
4. No eviction should take place abruptly (if at all) and without adequate compensation and rehabilitation.
5. Adequate compensation and rehabilitation should be determined in a participatory way, in consultation with the victims.
6. The state should take immediate action to ensure villagers access to safe drinking water.
7. The state should immediately provide the villagers of Dandi PDS and other social/food security benefits which they are entitled to receive, being poor and economically marginalized. These measures would ensure their food security.
8. Harassments by local authorities and forest guards must be immediately stopped and employees responsible for such harassments should be punished.
9. Local police should take immediate action against those culprits who abused and harassed village women on different pretences.

7.2. Recommendations on Howrah

1. Ensure sufficient minimum wages and/or minimum income to all workers.
2. Ensure all workers get all social benefits they are entitled to; if necessary, provide special benefits adapted to casual labourers.
3. Conduct awareness raising programs that effectively reach the workers; analyse the impacts of the schemes.
4. Regulate and control the contract system to prevent abuses and make sure workers in this system can earn a decent living.
5. Take steps against the discrimination and under-payment of women.
6. Take steps to rejuvenate the sick foundry industry.

7.3. Recommendations on Malda

1. Erosion should be considered as a national disaster. A policy to rehabilitate the victims should be in place. (A rehabilitation policy is available for earthquake, flood and other calamities but erosion is not included in that).Take the erosion problem seriously.
2. Conduct an official survey of the erosion victims and future victims; implement measures to ensure their right to food. Inform persons threatened by future erosions, of the dangers they face and what relief and rehabilitation they can avail form the government.
3. Ensure that the government provides immediate relief quickly and efficiently and that it reaches all the victims.
4. Make provision for adequate and long-term rehabilitation, of the erosion victims in a participatory manner.
5. Ensure the implementation of the different schemes like Anthodaya, Annapurna, Pension schemes, Family benefit scheme, Integrated Child development scheme, Maternity benefit scheme, Mid day meal scheme, Public distribution scheme.
6. Take steps to accord recognition to the char lands.
7. Take steps to regulate the measures taken to prevent erosion. Ensure that the disaster is not made into a profit making industry at the cost of the right to feed oneself of the victims of erosion.

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World Bank 2005 World Development Indicators

Eminent environmentalist and human rights activist Mr. Chinmoy Ghosh passed away on June 14, 2006. He was 73 years old. Mr. Ghosh was an active supporter of FIAN West Bengal. He was particularly associated with the struggle of the victims of river erosion in Malda. He guided the Fact Finding Mission of FIAN International in Malda last year. He will be remembered for his commitment towards human rights work, in particular for his role to promote the right to food in West Bengal.

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