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Rights Institutions and Hungry Labour in Tea  
Plantations of North Bengal**

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# **Whither Right to Food? Rights Institutions and Hungry Labour in Tea Plantations of North Bengal**

**Geetisha Dasgupta**

## **Introduction**

It is now well accepted that household food insecurity may blissfully co-exist with adequate availability of food at the national or sub-national level. Thus, while we may be at peace observing India achieving self-sufficiency in food grains in the 1970-80s and being able to sustain it since then, there are millions who go to bed without one square meal a day. In the estimate of Food and Agricultural Organisation (FAO), over 225 million Indians remain chronically undernourished. The National Nutrition Monitoring Bureau said, “In 2000-01 about half of the rural children in India, that are below five years of age, suffered from malnutrition and about 40 per cent of the adults suffered from chronic energy deficiency. “...This is due to the fact that a substantial proportion of the people are too poor to buy enough food...” (Radhakrishna, 2005).

Despite West Bengal’s remarkable achievements in agriculture, the percentage of people not getting two square meals a day is quite high. In fact, the percentage is the highest among all the major States. According to NSS Reports (415, 466, and 512), West Bengal occupies the highest position, both in case of households reporting, “not getting two square meals a day” in some months of the year, as well as, “households not getting the same throughout the year”. Reported inadequacy in West Bengal has remained at the topmost position now, almost for a decade. In fact, the percentage has seen an increase over the years.

We require detailed and sustained investigations of hunger and food inadequacy to reveal the truth about the “food question in West Bengal”, and to establish in face of persistent denial that there is indeed something wrong in this land. The trend of increasing food insecurity is alarming. A section of the Bengal population is now being condemned to increasing poverty and hunger, though the overall official headcount ratio of poverty appears on a decline. The nutritional status of the Dalits and indigenous population groups is worse. In 1998-99, over 60 per cent of the Dalit children below 5 years of age suffered from malnutrition. Apart from malnutrition, hunger deaths are regularly taking place. Death from lack of food, becoming common to West Bengal also, can be traced to a severe lapse in the right to food mechanism; and a deep void in the understanding that access to sufficient

amount of quality food is one of the most basic rights to be enjoyed by every citizen of the country. All other rights fall short if the right to survival and thereby the right to food is infringed.

In this paper I try to show what constitutes the mechanics of the legal and the administrative world of food rights in the Dooars area of West Bengal, specifically food rights of the tea plantation labourers. I try to show also in this context how some of the rights bearing institutions have negotiated the right to food as not a standalone right but as something constituted by other rights, such as the right to information, communication, and other rights to services and umbrella guarantees such as the fundamental right to life and freedom from deprivation. The PUCL versus Supreme Court of India Case of 2001, pertaining to right to food, and the interim orders issued in course of the case from time to time have increasingly strengthened the process of destroying the charity façade of these accesses to state-promised deliverables and have put them as an order of rights. The rights institutions have thus come into focus as well as question of food itself.

### **The Interviews**

The paper treats anything set up by the legal-political order to facilitate people's access to the rights, like the Bloc Development Office (BDO), the District Magistrate's Office and their subordinate staff, all the offices created for overseeing the smooth and desirable functioning of the food security schemes, and those that undertake audits of these bodies, as institutions meant to facilitate the enjoyment of rights, in this case food right. For the same reason it does not leave the Supreme Court, the High Court and all the other judicial courts out of its purview. The Supreme Court made it clear that prevention of hunger and starvation is "one of the prime responsibilities of the Government - whether Central or State" (Supreme Court Order, dated 20<sup>th</sup> August, 2001)<sup>1</sup>. In the case of State Governments, the Chief Secretary is answerable to the Court on behalf of the Government. In some circumstances (such as starvation deaths), the Court has stated that the Chief Secretary himself or herself would be held "responsible" for violations of the order<sup>2</sup>. However, such institutions are not enough for safeguarding the rights and people themselves set up platforms for action when they see that the above fall short of expectation. These are civil society organizations, which lend support from the base to the guarantee of rights. These are all rights-bearing institutions and in the common bid to make the subjects into rights bearing individuals, interfaces occur between rights institutions.

Civil Society Organizations have an important role in implementing the right to food. First, they have played an advocacy role in according greater recognition to the right to food, and in initiating a code of conduct. This code of conduct is designed to overcome some weaknesses in the human rights instruments that recognize the right to food, for example, lack of precision in the description of this right and the state obligations involved in achieving it. Secondly, through their participation in the regular sessions of the Committee on Economic, Social and Cultural Rights, they have also highlighted violations of the right to food. At the national level too, their

role in according greater legitimacy to this right, in exposing its violations and in promoting its justiciability has been significant (Gaiha, 2003).

In this perspective, in order to prepare the report I have depended on a number of ways and have kept in mind the convenience of data agglomeration. The report bases itself substantially on interviews, many of them done at formal and informal gatherings of groups of labourers from the tea gardens. Labourers employed in the tea gardens have been interviewed both at their quarters, at the coolie lines as well as at worksite. Some were interviewed at the researcher's place of stay. Interviews were conducted with the National Rural Employment Guarantee Scheme (NREGS) workers and officials. These interviews were done both at the worksite as well as away. A handful of interviews were conducted with people having grievances about the functioning of the food/work schemes in operation. These were done outside the District Magistrate's Office in Jalpaiguri. Another group of people interviewed consists of a mixed bag of civil society organization activists from inside and outside the tea gardens including women's organizations and women's wings of umbrella bodies, plantation labour union workers, and people working voluntarily for the better access of people to the Government schemes. Questions were asked regarding the functioning of the Government schemes and what they thought they should do additionally to make it work. Also, personal experiences of the labourers were noted. Trained muster roll verifiers in case of NREG (National Rural Employment Guarantee) and trained ICDS (Integrated Child Development Services) operation verifiers from among the women's organizations were interviewed to get an idea about the kind of hindrances they face. The interviewees were picked up at random and on account of availability. Some were located with help from the women's organizations, which were consulted.

### **Why the Tea Plantations of North Bengal?**

Starvation deaths do not occur in villages only, and only peasants do not die of hunger. Talking of starvation and starvation related death cases; deaths of workers have been equally noticeable in West Bengal, especially in the eighties and nineties when hundreds of mills and other industrial units closed down. They were called with black humour "sunset industries". Deaths then started in the tea gardens of North Bengal. Food right violations became most common in these pockets, removed far away from the metropolitan bustling pots. The most affected have been the Dooars and the Terai, the significant areas in Jalpaiguri and Darjeeling districts of West Bengal. Jalpaiguri district has been one of the worst sufferers in this connection. In a span of the last 10 years, starvation deaths have occurred noticeably in the plantation zones of this area. It is estimated that over 500 workers or their family members died out of starvation in 2003-04 alone (Bhowmik, 2005). With plummeting financial conditions of the tea estates several tea gardens stopped functioning, and their workers faced starvation. Even the ones which continued to function stopped paying regular wages and rations to the labourers. This affected the household food intake directly.

The protracted crisis entangling the plantation sector in India since the late 1990s has attracted wide attention. The crisis reached its peak in 2003-04, when the tea production process was brought to a halt. The survival strategies adopted by the planters' community were broadly confined to cost saving and labour displacing measures such as dilution and even abandonment of prescribed agro-management practices, labour retrenchment, lockouts and resistance to routine tripartite negotiations. One of the options available for reducing the average unit cost of production is slashing the expenditure on major cost components like, for example, an immediate wage slash or freeze, as might be suitable in a particular case (George & Joseph, 2005). Thus, there was a deliberate effort to put the major part of the burden on the plantation labourer. George and Joseph point out, the worst hit for this have been the plantation labourers in Kerala. Many estates, as in West Bengal, have declared lockouts there. Several others have summarily abandoned routine operations.

The tea plantations represent actually an entire framework of work culture carefully put together in pieces over time. Labour was brought from other areas and moulded to fit the required bill. The first set of workers was brought from Jharkhand and Bihar. Entire families were brought and settled in the plantations as *coolies*. The first batch of planters began their commercial business almost neck to neck with the time when slavery was uprooted. What they needed was a replication of the same institution. Slaves were needed, in some way or other. Therefore, a huge thrust was laid upon tea and sugarcane plantation. This however, generated a labour class that was completely dependent on the plantation or the planter for their sustenance. No alternative was left for them for skill diversification besides their present occupation, should there occur any crisis in the present industry. One might ask a question, and legitimately, does skill at all play a significant role in ensuring one's right to food? The answer might be that neither in case of a smoothly functioning industry, nor in a stagnated state, as the present situation, does skill ensure any better access to food rights. It is true that when a labourer works in a tea garden which is running, he/she can earn a regular wage, can buy food, and get rations at relatively lower costs, but all such entitlements fall far short of the required levels of goods to survive when the market crashes, and the tea garden labourer finds nowhere to go. In that respect at least, the state sponsored schemes that promise to rescue the unemployed are expected to raise them to a better position<sup>3</sup>.

There are around 6,000 tea growers and 67 Bought Leaf Factories (BLFs) in West Bengal. Tea production in these small tea gardens is quite significant, being around 21-22 million kilograms per year. The increased supply and unequal price competition have considerably eroded the viability of many tea estates. The estates most affected are primarily those which neglected taking measures in the past for improving the productivity of the gardens. The ability of most of the better managed tea gardens to cope with prevalent situations in the tea industry in the state indicate that with prudent management practices, survival of tea units should not be a problem (Economic Review, 2007-08)<sup>4,5</sup>.

In a meeting with "hungry workers" on 25 September 2008, at a 72 hour sit-in organized by his party in Siliguri, Partha Chattopadhyay, Trinamul Congress

leader of Opposition in the Legislative Assembly, said, even if the land was not fertile for the growth of the tea bushes, it was the responsibility of the State Government to take measures so that the fertility quotient rises. At another meeting with the workers of the closed Raipur tea estate, the newly formed Trinamul union's line of action follows a path where direct party membership is not the main aim. Rather labourers have been promised all aid if they organize themselves under the banner of the Cha Bagan Pratiraksha Committee, formed much on the line of Krishi Jami Pratiraksha Committee of Singur. In a meeting organized at the Raipur tea estate, Jalpaiguri, he said, "...It's high time all tea workers united and launched a massive movement together to save the tea gardens. If you don't do it now, the entire tea industry will die. You need not join Trinamul. You can form a Cha Bagan Pratiraksha Committee yourself and I promise every possible support to you." (Times of India, 18 June 2007)

The tea industry has been one of the worst sufferers of this oscillation in performance standards. The tea industry employs the largest number of workers in the organised sector. Tea estates in Jalpaiguri employ around 2,50,000 permanent labourers. Wages have been traditionally low in this sector despite changes in governments. Wage deficiencies easily translate into shortfalls in the buying capacity of most essential goods for the household. Sustained deficits corrode the delivery of very basics like food, clothing, shelter, healthcare and education. Income shortage and shortage of purchasing power of the tea garden labourers have translated to a situation where workers have to starve and cannot do anything about it, unless they receive support from outside. The Dooars region has seen closure of 16 estates employing over 10,000 workers. If their family members are included, then the number of affected population increases four-five times. The running estates cannot absorb these workers as they say, they are sick themselves (Bhowmik, 2009).

To this, one has to add the fact that, West Bengal Government has no minimum wage regulation for tea industry. There has been no statutory declaration of minimum wages for the West Bengal tea industry since 1956-57. While in states such as Tamil Nadu, Kerala, Karnataka and even Assam, minimum wages for tea labourers are in place, it seems that the West Bengal Government does not think such a step was necessary for the workers in tea gardens who mostly belong to indigenous population groups (Nandy, 2005). The wages offered here are well below the levels in other major tea producing states. Despite ration subsidy of Rs 10 per day as part of daily wage, due to the absence of a benchmark related to minimum wage, tea garden workers' conditions remain grim. This was evident from the wage negotiations that followed the strikes in 2005. Before the new agreement, the daily wage of a worker was Rs 45.90. Each worker also got subsidized ration (2.2 kilos of rice/wheat @ 40 paise/kg). Ration supply was denied on a day when it would be a holiday, or a worker would be on leave. Following the strikes, the trade unions bargained with the planters for a minimum daily wage of Rs 88. This was derived from the calculations of the need-based minimum wage declared in the Indian Labour Conference of 1957. The employers' association agreed to an increase of only Re 1, claiming that the industry was in shambles and wage increase was an impossible proposition (Bhowmik, 2005). Moreover, the workers were denied any arrears whatsoever, on the ground that the

agreement did not take effect from the date from which the last agreement stood lapsed.

### **The State Mechanisms, Non State Mechanisms/Facilitating Bodies and Interfaces with Rights**

Food crisis shot up so much that, in April 2004, the Supreme Court Right to Food bench passed certain orders for the closed tea gardens. The Government of West Bengal was instructed to:

- Declare all plantation workers in closed gardens as Below Poverty Line (BPL) with immediate effect.
- Supply the garden labourers with Antyodaya Anna Yojna (AAY) food grains @ Rs 3/kg of rice and Rs 2/kg of wheat. The quantity allowed would be 35kg/family/month.
- Send in a medical team consisting of doctors, nurses, pharmacists with medicines, and at least twice a week to each garden.
- Make sure that each worker at least gets 15 days of work each month under the Sampoorna Grameen Rojgar Yojna (SGRY). In gardens closed for more than a year, the workers would get an unemployment allowance of Rs 500/month.

Additionally, the West Bengal Government came up with certain regulations saying that the Labour and Labour Relations Department of the state have to take up steps for immediate regularisation of the new plantations (belonging to small growers mainly) on an urgent basis, including those plantations that involve vested land. The abandoned gardens were planned to put open to bids from promoters. In order to provide temporary relief to the workers of the abandoned gardens, and their families, workers of several tea gardens were planned to be brought under relief measures under various programmes. These included supplementary nutrition programme under the ICDS, mobile health clinics under the State Health Development Project, drinking water under the PHE (Public Health Engineering) Department, rural water supply programme under the Zilla Parishad, cooked mid day meal scheme under the School Education Department etc. (Economic Review 2004-05). Numerous wage employment schemes have been set on a roll.

Keeping in view the above minimum provisions stipulated by the Court the other arrangements set in place by the Court injunctions, we can map the interfaces of the people with the rights institutions. This foregrounds in a way the contradiction inherent in the entire right to food issue namely that, while the public in these orders appears only as a recipient class (therefore object of a state-sponsored charity), yet interfaces and encounters of various types and in forms occur with regard to rights acquisition and rights denial, both of which transform the non-derogatory nature of a right as one of intermittent contestation. As Gaiha (2003) points out, implementation of this right is a major concern, three areas of state responsibility are: (1) the obligation to respect, (2) the obligation to protect, and (3) the obligation to fulfill.<sup>6</sup> For example, with regard to the protracted closure of several tea gardens in the



Dooars, the Union minister of state, Mr Jairam Ramesh said on 15 September 2007 (The Statesman, Business section, 16 September 2007) that, the Government would make use of the Section 16 (E) of the Tea Act of 1953 for the first time against 6 tea gardens of the Dooars to take over the gardens lying closed for more than three months without investigation or finding a new management for the gardens, which failed to reopen and regularize themselves despite repeated talks and promises to the Government about the same.

Factors such as public pressure and social audit arise here. Public action, therefore, is not only state action. These actions consist of various social and political activities that go far beyond the atomic individual or single institutional initiatives. The domain of public action includes an equally significant share of non-state activities also.

To fight back the crisis evident from the first rush of food shortage reports, the Government devised certain policies with focus on household level food security. In April 2001, People's Union for Civil Liberties (PUCL), Rajasthan filed a writ petition in the Supreme Court seeking legal enforcement of the right to food. The basic argument was that the right to food was an implication of the fundamental "right to life" enshrined in Article 21 of the Indian Constitution. Following this, Supreme Court hearings on various aspects of the right to food have been held at regular intervals. This public interest litigation (PIL) is far from over, and it may take years before the Supreme Court pronounces its final "judgement". But many interim orders have already been passed. (*Supreme Court Orders on The Right To Food: A Tool For Action, 2008*). For determining that a household gets sufficient food, the per capita/consumer unit food energy intake is taken as a measure of food security. Calorie intakes are compared. The Government has decided to implement some new measures or invigorate old measures. These are institutions like the public distribution system (PDS), which distribute items like food grains and sugar at administered prices through fair price shops. A range of food-for-work and other wage employment programmes are there, such as the National Rural Employment Guarantee Scheme. In the latter category, people are paid partially or fully in rendering their labour for public works. Moreover, they are able to suggest programmes for public works themselves, like social forestry, making of pavements, road construction and repair, up grading community sanitation and water supply facilities.

Some programmes are meant directly for women and the children. For example, the mid day meal and the supplementary nourishment programme are for women and children. Table 1 gives an idea of the schemes in operation and their output over the last few years in eight different closed/abandoned tea gardens of the Dooars. The table corroborates the fact that there are huge discrepancies as far as the results of the food for work and cash distribution programmes are concerned. Here, as one would find, there is involvement of direct cash distribution. The dilemma on the administrative level has always been one of whether it is more effective to distribute cash doles or assist the people in kind. The following table shows that in some tea gardens like Kathalguri, Samsing and Chamurchi there have been more than 6,000 man days of work created, some like Red Bank, Raipur, Bamandanga and

Tondoo have received less than 5,000 man days of work. Surendranagar has had only 1,458 man days of work. Cash distribution for Surendranagar was Rupees 15,600 thousand which was also drastically less than Kathalguri, which received Rupees 1,17,200 thousand and was the third highest amount of cash dole receivers among the gardens reviewed on the list below. Samsing received the highest amount of cash as well as one of the highest number of man days of work. While in case of Special Grameen Rojgar, Kathalguri, Surendranagar, Chamurchi, Red Bank or Ramjhora failed to draw any monetary investment, Samsing drew Rupees 1, 02,300 thousand with Raipur as a distant second at Rupees 1,200 thousand.

**Table 1: Status of Food for Work Programme Sampoorna Grameen Rojgar Yojna (SGRY) and Cash Distribution Programme of the Government of India as on 04.01.2006 (w.e.f. 15.12.2005)**

Name of Tea Garden	Present Status	Food for Work Programme			Special Grameen Rojgar (Cash Distribution)	
		Number of Man-days	Cash Distribution (in Thousand Rupees)	Food Grain Disbursed (in Quintals)	Number of Beneficiaries	Amount of Money Spent (in Thousand Rupees)
Kathalguri	Closed	8,500	1,17,200	68,920	0	0
Surendranagar	Abandoned	1,458	15,600	12,456	0	0
Chamurchi	Abandoned	6,276	85,020	50,682	0	0
Red Bank	Abandoned	4,375	60,500	35,125	0	0
Raipur	Abandoned	3,543	71,596	24,745	200	1,200
Ramjhora	Closed	5,515	1,76,480	27,575	0	0
Samsing	Closed	6,572	2,31,440	39,432	1,705	1,02,300
Bamandanga and Tondoo	Closed	4,100	82,000	28,700	0	0
<b>Total</b>		<b>40,339</b>	<b>8,39,836</b>	<b>2,87,635</b>	<b>1,905</b>	<b>1,14,300</b>

Source: Economic Review 2007-08, Page 165, Para 5.145, Government of West Bengal

Following the public interest suit by the PUCL, the Supreme Court has laid down a formal structure of accountability, mentioned below. However, as we shall show, tracing the right to food along these lines is not easy and may be confusing. Box 1 elaborates the structure of formal accountability.

**Box 1: Lines of Accountability: The 8 May 2002 Order of the Supreme Court**

On 8<sup>th</sup> May 2002, the Supreme Court laid down specific lines of accountability and grievance procedures for the implementation of all “interim orders”. The key directions issued on 8<sup>th</sup> May 2002 are as follows:

1. “The Gram Sabhas are entitled to conduct a social audit into all Food/Employment schemes and to report all instances to misuse of funds to the respective implementing authorities, who shall on receipt of such complaints, investigate and taken appropriate action in accordance with law.”
2. “On a complaint being made to the... CEO/Collector regarding non-compliance of the orders of this Court the Concerned CEO/Collector shall record the salient features of the complaint in a register maintained for this purpose, acknowledge receipt of the complaint and forthwith secure compliance with this Court’s order.”
3. “The CEO/Collector of all the Districts in the States and territories shall scrutinize the action taken by all the implementing agencies within their jurisdiction to ensure compliance with this court’s orders and report to the Chief Secretary.”
4. “The responsibility for implementation of the order of this Court shall be that of the CEO/Collector. The Chief Secretary will ensure compliance with the order of this Court.”
5. “Dr. N.C. Saxena, former Planning Secretary, Government of India, and Mr. S.R. Shankaran, former Secretary, Rural Development, Government of India, shall function as Commissioners of this Court for the purpose of looking into any grievance that may persist after the above-mentioned grievance resolution procedure has been exhausted.”
6. “On the Commissioner’s recommending a course of action to ensure compliance with this Court’s order, the State Government/UT administrations, shall forthwith act upon such recommendation and report compliance.”
7. “The Commissioners shall be at liberty to take the assistance of individuals and reliable organizations in the State and Union Territories. All officials are directed to fully cooperate with such persons/organizations, to bring about effective monitoring and implementation of the order of this Court.”
8. “The Gram Sabhas are empowered to monitor the implementation of the various schemes and have access to relevant information relating to, inter alia, selection of beneficiaries and the disbursement of benefits. The Gram Sabhas can raise their grievances in the manner set out above and the redressal of the grievances shall be done accordingly.”

Source: Supreme Court Orders on the Right to Food: A Tool for Action (2008)

Whatever emerges from the idea of relative deprivation, starvation is a sure indication of poverty<sup>7</sup>. As Amartya Sen and Jean Dreze put it, this can be plugged only by concentrating on the ability of people to command food through the legal

means available in the society, including the use of production possibilities, trade opportunities, entitlements vis a vis the state, and other methods of acquiring food. A person starves either because he does not have the ability to command enough food, or because he does not use his ability to avoid starvation. (Sen & Dreze, 1989). But locating the right to food as a right, this appears as a problematic affair, especially when one seeks to see what people conceive the right to be, and accordingly the contradictions that emerge when a particular perception comes face to face with the existing delivery mechanisms, that is, the State. In fact, a big question mark develops over the issue of whether the State is any more acknowledged as the sole delivery mechanism or not.

Facing the first hindrance at the level of securing the right to work (as the means to right to food), a letter dated 16.04.2008 (undersigned by Tapas Modak of Churabhandar Gram Panchayat, on behalf of 102 job applicants from the same Panchayat, and received with due stamp by the Block Development Officer, Maynaguri), seeks to remind the state authority that an application for job under the NREGA was made at the BDO's Office (see Annexure 1). But no work opportunity had been forwarded though 15 days have passed after the initial letter. Therefore, the BDO's Office should try and arrange for unemployment allowance for the persons applying for job till the latter could be assured. The next letter to the BDO, dated 08.05.2008 (see Annexure 2), draws upon the first letter and says that despite pleading for unemployment allowance on the pretext of not having been given any job under the NREGA, the 102 applicants did not receive any monetary assistance or information pertaining to that even after the passage of a month. Moreover, when they went to seek information, they were told that since they had not applied for the allowance by filling up a certain form number 4, they were not being given the unemployment allowance. But the rules and regulations do not speak anything about the form number 4 mentioned by the BDO's office. Under such condition they were now requesting the BDO to intervene and arrange for their allowance or else they would be forced to organize a sit-in demonstration and block the National Highway number 31.

This was thus a dialogic situation where one person was speaking on behalf of 102 others to secure certain benefits promised by the Government that the latter had failed to deliver, and in such a case was negotiating the right to organize a demonstration exposing the Government's and the local administration's inability to deliver or explain the non deliverance. The undersigned, we should note, does not apply for a job himself. He, in a representative manner writes the letter. It is a visible step towards information acquisition. Therefore, the State ceases to be regarded as the one and only facilitating mechanism, as far as right to food is concerned, because while we look forward to the state for the availability of food, we advocate at the same time community vigilance and social audit mechanisms, which stretch to the individual citizen level at its most ambitious form. The state of course takes the path of legal intervention and directives towards implementation consequent upon complaints filed from the ground level. But it is a long route and takes time for the actual policy benefits to reach the bottom through the routine intermediary structures.

It is often a very convoluted question: who should be giving the people food, in case they fail to sustain themselves?

If one chooses to straight away ask the question, who should be held “directly responsible” in case there is a breach of the right to food, meaning, who should be approached if any of the multifarious schemes the Government has designed to ensure equitable distribution of food along the length and breadth of the society fails to deliver, the answers that emerge are fascinating. The “idea of responsibility” varies to a great extent from case to case, but keeping a more or less tangible relation with the issue of information dissemination among the subjects of deliverance. Invariably there are occasions when we find the state mechanism falling short of communicating the information to the hungry about available ways out of the food crisis. A look at the annual Information and Publicity budget of the West Bengal Government corroborates this point. Under the Tenth Five Year Plan, the information expenses in 2003-04 were expected to be only Rupees 0.94 crores whereas the ultimate expenditure was Rupees 4.29 crores. Only in 2005-06 the budget was Rupees 12.84 crores, a onetime information and communication bid in the wake of the introduction of the NREGS in 2005. The figure again went down to Rupees 7.76 crores in 2006-07 (Economic Review 2003-04 and 2007-08).

As we know, the basic change NREGA confers on people is guaranteeing right to employment and making the government accountable (Gopal, 2009). Herein the state’s evident inability makes way for the non-state bodies as actors to pitch in. The next letter dated 29.07.08 (see Annexure 3), signed by Tapas Modak is written on the letterhead of an operating civil society organisation, Swadhikar.<sup>8</sup> The letter is titled “Social Audit According to the NREGA.” It says that three years have passed after the implementation of the NREGS. Yet, the local administration has not organized any social audit meeting prescribed under the Act. Moreover, even if three consecutive years were added, the people of Churabhandar had not got 100 days of work. The letter further says that the social audit is supposed to prescribe facilities that need to be built for local area development and that in turn would generate man-days of work. But none of these were done. The people of Churabhandar therefore wanted such a social audit meeting to be held in seven days’ time in presence of the BDO. We can see how in this way the rights process assumes the structure of an interlocked system of schemes, failures, facilitating and advocacy institutions, that would make people more active for their rights and enable them to demand justice from the state. But does food become available through this route? We do not have a confirmed answer.

In such situation, a perfectly logical structure of accountability and service delivery of the state may lose meaning and relevance for the people at the receiving end, who are now reduced to symbols of charity when the former systematically fails to set up communication with the latter. At such points, people rely more on community structures; the state is kept aside. It is the community, which stands for guaranteeing the rights of the betrayed. Geeta Chikbarik’s parents died of starvation in 2005. She had four siblings to feed, and she herself was only 15 years old at that point of time. It was not long before she herself fell sick, trying to earn a handful. When her neighbours understood that Geeta too faced the threat of death, there was a

mass uprising. Geeta's family was being taken care of by neighbourhood people, who were themselves unable to gather a square meal for their own families, but continued to stand by the girl. The District Magistrate and the Block Development Officer were forced to intervene after repeated sit-ins by the garden people. They thought she should be taken to the hospital for care and food. However, she was discharged in three days, with diagnosis of severe malnutrition. She died after a few days of her release and her death certificate said it was a case of cardio respiratory failure. It has been a standard practice of the health service personnel of the plantation sector to underestimate the health crises faced by the underfed and starving patients. Grave cases of malnutrition and starvation deaths have been certified as cardio respiratory failures, since that is the final cause of death for all, and summarily dismissed from public attention. The death registers show that most of the workers die due to blood dysentery and cardio respiratory failure. However the maximum percentage dies of causes 'not given' or 'others' which it is not difficult to understand are hunger deaths given the present condition of these gardens [Sunil Scaria, nd]. Geeta's siblings are now being taken care of by the erstwhile Munshi of the Kathalguri garden, Gopal Chikbarik, who is also a distant relation of Geeta. Having been the munshi at one point of time, Mr. Chikbarik commands some amount of extra resources than other labourer families in the tea gardens. He affirms that conditions in the gardens have been deteriorating over time, and more rapidly now. The Chikbarik case points out, with some clarity how the community becomes a critical factor, when the state fails to ensure the rights<sup>9</sup>.

The Chikbarik case, among many other things, calls for a review of the healthcare situation of the tea gardens. This is all the more because, right to food is one social right, which cannot be seen in complete isolation from other rights such as right to education or right to information. Food, education and health must be interlinked in order to build capacity of the population so that they can become self-sustaining in due course of time. The government has provisions up its sleeve, but implementation is where there is a major gap. As mentioned above, the Government of West Bengal was advised to send trained medical personnel to each of the closed/abandoned gardens twice a week. But the real situation, documented in the figures given by the State Government, in Table 2, illustrates a further aggravation of rights violation. Unlike elementary education, health care is yet to be widely accepted as a basic right of all Indian citizens. This ambiguity has facilitated the continuation if not intensification of state abdication in this field in the 1990s. Public expenditure on health has declined as a proportion of GDP, from an abysmally low base (about 1 per cent). And the lack of any major initiative in the field of health care during the last 10 years contrasts with wide-ranging innovations in the field of elementary education. (Dreze, 2004). The West Bengal Government's figures follow in Table 2 and show that though in one garden, the number of visits had been up to the requirement, all others had been totally deprived of their entitlement. Samsing and Bamandanga-Tondoo had been visited only twice while Surendranaga and Red Bank had three visits.

**Table 2 : Status of Situation of Health Care in Closed/Abandoned gardens in terms of healthcare entitlements like mobile medical van visit conducted by the Government of India as on 04.01.2006 (w.e.f 15.12.2005)**

Name of Garden	No. of Days Mobile Medical Van Visited the Garden	No. of Patients Treated with Medicine
Kathalguri	5	218
Surendranagar	3	27
Chamurchi	5	146
Red Bank	3	121
Raipur	16	384
Ramjhora	5	210
Samsing	2	286
Bamandanga and Tondoo	2	88
<b>Total</b>	<b>41</b>	<b>1,480</b>

Source: Economic Review 2007-08, Page 165, Para 5.145, Government of West Bengal

The right to non-exclusion, as put forward by Jean Dreze and Amartya Sen, can be discussed in this context. A subsistence food ration provision is something that everyone should have as an inalienable right. This should be accompanied with different types of basic necessities like education, and health care because their absence would only protract the scarcity of the food and would fail to make the right to food incontrovertible. Therefore, universal support is the minimum requisite that is required to ensure the right. In fact, one can say, it is public action coupled with social audit of entitlement delivery that would bridge the gap between the promises and the delivery, that is, the schemes formulated and their implementation for the purpose of public good, making the access unhindered. This public action could be collaborative as well as adversarial, depending on the nature of perception that the people receive. Sen and Dreze (1989) point out, "...the public can do a great deal for itself even without governmental assistance...because the nature of government policy can depend very extensively on the nature of public activism, including articulated demands and criticisms." This point is more relevant in case of the tea workers whose industry is on the verge of closure and who are caught in a storm where on one hand they have their entitlements only as per the Plantations Labour Act, 1953, whereby their entitlements can only be delivered by the tea estates and on the other hand the condition that they cannot legitimately demand assistance from Panchayat as long as they continue to be plantation labourers. In such a case of closure, they have to wait for Government doles and reliefs and cannot demand it from the Panchayat as long as they are not juridically recognized as panchayat subjects.

In September 2007, when an evaluation of the supplies for the ICDS and PDS by Swadhikar revealed that in as many as 26 ICDS centres, the children were offered only 2-3 biscuits a day, and that 8 ration shops were selling rice and wheat much below the standard supplies, the Child Development Programme Office was

approached. The office does not keep a phone. Neither do the officers come to work regularly. Women, who work in the Anganwadis, have been threatened with their jobs for talking to “outsiders”. The State Government evaluations of the services are as follows:

**Table 3: Status of Supplementary Nutrition Programme (SNP): ICDS, Mid-day meal, SNP for Pregnant and Lactating Mothers/ Sinking of Tube Wells in Closed/Abandoned Tea Gardens, as on 04.01.2006 (w.e.f. 15.12.2005)**

Name of the Garden	No. of New Tube Well Sinking Completed	No. of Children Under ICDS, SNP (6 Months to 6 Years-Daily Basis)	Normal SNP for Pregnant Mothers and Lactating Mothers and Adolescent Girls (Rice Distribution in Quintals)	Pilot Project for Nutrition to Pregnant Mothers and Lactating Mothers	Cooked Mid-day Meal Scheme Started in No. of Schools
Kathalguri	0	3,266	487	No	1
Surendranagar	0	3,893	441	No	1
Chamurchi	0	1867	264	No	2
Red Bank	0	1,400	109	No	1
Raipur	4	4,510	770	No	1
Ramjhora	0	6,270	1,122	No	2
Samsing	0	1,492	364	No	
Bamandanga and Tondoo	0	4,946	585	Yes	3
<b>Total</b>	<b>4</b>	<b>27,644</b>	<b>4,142</b>		<b>19</b>

Source: Economic Review 2007-08, Page 165, Para 5.145, Government of West Bengal

Table 3 shows the work undertaken by the different kinds of food for work programmes in the eight closed/abandoned tea gardens of the Dooars. Here also, the net output is far below the expected and discrepancies are obvious from the figures. Apart from Raipur, no other garden had had a new tube well sunk, and apart from Bamandanga-Tondoo, no other garden had a pilot project started for pregnant/lactating mothers. The distribution of rice under the Supplementary Nutrition Programme (SNP) has been as low as 109 Quintals for Red Bank, 264 Quintals for Chamurchi and 364 Quintals for Samsing. Only Ramjhora received 1,122 Quintals. Apart from Bamandanga-Tondoo, all the others received less than 50% of Ramjhora.

The distribution of food grains has been elaborated a little more in Table 4. Issuing BPL cards has always been a big problem and the age old misconception of one card for a household, even if it has more than one nuclear units living under its roof. The situation is same as Bela Bhatia and Jean Dreze (2006) speak of a regular feature of the denial of separate job cards to nuclear families living together as a joint household. According to the Guidelines, each nuclear family is entitled to a separate



job card. This point, however, has not been clearly conveyed to the panchayat sevaks. The distribution of rice and wheat also fall far below the required levels. While Raipur received only 47.07 Quintals of rice and wheat each, Kathalguri received 238.00 Quintals of rice and wheat.

**Table 4: Distribution of Food Grains in Closed/Abandoned Tea Gardens Under SPL AAY in November 2005**

Name of the Garden	No. of Families for which I Cards were Issued	Adult Members	Minor Members	Rice Distribution (in Quintals)	Wheat Distribution (in Quintals)
Kathalguri	6,500	5,616	2,368	238.00	238.00
Surendranagar	1,458	711	205	28.47	28.47
Chamurchi	6,276	3,949	410	145.39	145.39
Red Bank	4,375	2,264	715	91.75	91.75
Raipur	3,543	1,170	350	47.07	47.07
Ramjhora	5,515	3,277	1,217	135.69	135.69
Samsing	6,572	3,505	1,417	170.40	170.40
Bamandanga and Tondoo	1,150	1,393	1,496	115.00	115.00
<b>Total</b>	<b>35,389</b>	<b>21,885</b>	<b>8,178</b>	<b>971.77</b>	<b>971.77</b>

Source: Economic Review 2007-08, Page 165, Para 5.145, Government of West Bengal

The norm laid down by the Central Government, of having one Anganwadi Centre per 500 of population is largely ignored. For example, in Chamurchi GP, there are only 6 ICDS centres for a population of 8,000. The facilities available are *kachcha* latrines and no kitchen. The food served is cooked in the open. It is not at all possible for the small number of ICDS there, to take care of every child in the bloc. Pregnant women are denied the services promised to them by the state, like monetary aid of Rs 500 per month till delivery. Jashomati Orao, from Namji line, Betguri tea estate, Malbazar bloc, says, against a demand of the monthly financial aid, the women responsible for disbursal of the money tells that, only a payment of Rs 400/- would be made, and the rest would go to the office people as cost of services made available. The right guaranteed therefore, comes at a price payable to the people working for and making up the face of the state machinery. Is this a kind of rent payment to the State for its services to its citizens at each of the delivery points? Persistent agitation by the people with the help of the outsiders and Self Help Groups (SHG) was mainly responsible for the increase of the number of Anganwadi Centers from 227 to 977 in Malbazar (Seetamani Orao, Mahila Jagriti Sangh, Malbazar)<sup>10</sup>.

One good example of what we are discussing can be the National Rural Employment Guarantee Scheme. The NREG fell short of people's expectations, notwithstanding the fact that the scheme got the backing of legislation. Against a promised 100 days of work (and therefore food) a year, in 2006, only 66 days of

work was made available to the people of Maynaguri. In 2007 it shrunk further to 27 days. “After repeated deputations at the BDO’s office and express instructions from the latter, there was some formal work distribution, though the work was not given finally”, says Tapas Modak, Churabhandar, Maynaguri Bloc<sup>11</sup>. The administrative offices often take the path of straightaway refusing to receive the work applications people seek to file when NREG work is not found available. When Tapas Modak organized a sit-in at the BDO office after repeated denial of NREG work, and there was significant amount of furore raised over the latter, the local political bosses and union goons came with the threat of imprisonment to ensure that there was no media coverage. Swadhikar self help group from Maynaguri says there are discrepancies with the muster roll also. Moreover, the muster roll is never taken to the field and the administrators tend to work from within offices, far away from the field. The daily wage needs to be coaxed out as the money is generally kept away even if work is done. This leaves the unemployed to another paradoxical situation: work with private employers like local landlords would earn them less amount of money as daily wage compared to the state sponsored programme of NREG; yet they would get their wage on completion of the day’s task, enabling them to buy the necessaries. The state scheme on the other hand, debilitates this smooth process because the money is paid much later and mostly in lot for work for a number of days. Thus the situation they face and the choice they have to make is: where should they work?

But, the NREG continues to be one of the most important policy assistances required by the plantation labourers. The tea gardens can offer only 4-5 months of intensive work, from July to October. During this time, there is maximum leaf yield. The rest of the year, they need work from the NREG. The NREG is therefore, promising, particularly in terms of finding work in the months, which are non-functional with respect to the tea garden work schedule. But the NREG requires a rigorous initial groundwork. In each of the villages, at least 1000-1500 job cards are to be procured. Voluntary workers have to go to almost all houses to talk about job cards and why the people need them. There are also deputations to this effect. It is an extremely difficult task to procure job cards. Jasomati Orao says, she had to go to every household to create awareness about job card procurement. In an optimistic mood, she says, “...it is obvious that I should talk to the young in the garden...however, I do not even leave the old men and women...”<sup>12</sup>

Even after such mobilizational work at the social level, due to which it could be ensured that at least a sizeable section of the people had job cards under the NREG, there have been huge challenges to the right to find work. Sibani Orao from Wasibari tea garden says, when she went ahead with a work unavailability petition to the Panchayat Samiti, she was told, “...there’s no money and therefore no work; ...by the way, who are you to demand work?”<sup>13</sup> The last statement is self-explanatory in pointing out how exactly the people on the other side of the table view the common people who are on this side as far as rights are concerned. One has to remember that this is a population group, which is dependent directly on selling its labour power and procuring food out of that. We are not discussing a population group, which produces subsistence crop to see them through most of the year, and would require work only when the need to buy their food outside that crop

availability would appear. The tea labourer produces cash crop. Therefore, once the garden is closed down, that labourer must find out work to continue to live even for the next day.

Among the places there are two gardens infamous for starvation deaths. These are the Kathalguri tea estate in Dhupguri administrative bloc and Bhernoberi tea estate in Kalchini bloc. Kathalguri saw as many as 20 starvation deaths across 7 families in 2003-04. Bhernoberi however, is a much more bitter case, where, in addition to a death toll of 106, malnutrition and starvation still persist. These two tea gardens are classic examples where systematic deprivation pushes the workers to extreme points.

In 2006, Phulwanti Kharia lost her husband Bablu to prolonged starvation. Her home collapsed and her present dwelling was constructed with the Rs 10,000/- compensation made available to her after her husband's death through a movement by the Bhernoberi workers. Phulwanti has however lost her eyesight. She lives with her three children, two boys and a girl, all of whom suffer from diseases that owe their origin to Phulwanti's malnourished pregnancy and lack of proper nutrition after birth. Phulwanti's mother-in-law laments that the widow does not have her name up in the BPL list yet. It is immensely difficult, because Phulwanti lives with her children in that part of the coolie line, which is outside the plots of housing offered by the plantation administration. It is worthy to note in this regard that, the garden administration does not offer housing to all its labourers. It constructs a stipulated number of coolie residences, which obviously cannot provide a roof for everyone. The rest are somehow or other managed by the workers. The standard excuse offered by the planters is that most of the latter category belongs to temporary workers, or workers who have been inducted as permanent later and were initially temporary labourers. These households are therefore deprived of the standard sanitation facilities of the pucca coolie quarters and cannot expect upgradations that might be made available to the latter category. Phulwanti's elder son attends the ICDS centre. When asked about its functioning, darker tales come out. The food served is Khichri, which often causes digestive problems for children.<sup>14</sup> The standard alternative offered by the bloc administration is in the form of distributing raw vegetables or lentils, or rice, or wheat supplies to the children, but that also does not serve the purpose because, more often, there is no one at home to take care of the task of cooking. The plantation sector employs female labour; so, there is no one at home to cook. This reveals another moment of disconnect between the administration and the people. This fact defeats the guideline that administration to be localized, as the present way does not take into account the basic mode of family life in the plantation sector, where women share equal responsibility of wage earning.

One of the most desired functions of the public platforms is that of communicating to the people, the information about what facilities and deliverables they can access in order to cope with situations that drive them towards starvation, their rights etc. Sending the information down also needs sending errands especially because the tea gardens are often situated far from each other, and given the labour conditions historically obtaining in the gardens. Public meetings are held and expositions are made on the right to information. In fact, this is one tool, which is

utilized both to protest against denial of rights and make efforts for the acquisition of rights. Slogans, posters and plays are produced for the purpose of communication. Public opinion needs to be elicited and also formed. In the background of the system of indentured labour in the past, and its traces continuing today, the right to information is now held up as a means by which the tea garden worker acquires agency or the ability to represent himself/herself on the issue of denial of rights – in this case food right. Yet, what is evident is that subjection to continuous destitution and gloom results in a situation where the workers increasingly are resigned to the idea that they are rightful or right-endowed human beings. In such situation, it becomes difficult to reinforce the access to deliverables guaranteed by the state.

### **Posters: Shift in Tone and Style**

It is interesting to note, against that background, how the slogans on posters, which have come up from time to time over the last six years during active struggles and periods of relative smooth functioning, undergo transformation in respect of portraying the evolution of the idea of rights. The gradual change in tone corroborates how people have developed through several years of movement and mobilisation the idea that sufficient food is a right. For example, a poster on ICDS says, “*sehat siksha aur poshan, mang raha aaj ka bachpan*” (“Today children need health, education and nutrition”). This talk in terms of need, a requirement placed in the form of a pleading in front of an authority responsible for delivery, also doubles up as a consciousness-imparting phrase. It also continues the need-based and rights-based approaches. But it never crosses the polite undertone it carries. If we juxtapose this to another one on PDS and Right to Food Campaign, which says, “*bhookhe pet, bhare godaam, anyay hai, apraadh hai*” (“hungry bellies and packed go downs: this is criminal and unjust”), we get the idea that food is now being conceived as a right and not something someone may want to make available to them out of personal volition. People view the breach of this right as a criminal offence. It marks a moment of break with the earlier ideas of justice in form of the State aid and assistance. Further, a slogan on non-recruitment of required number of people by the NREG says, “*machine hatao, mazdoor lagao*” or (shun the machines, employ labourers”). This slogan assumes almost an urgent tone of instruction that clearly goes ahead of the last two slogans. As if it is now telling the public what is good for them and what is not. The worker demands that machines be removed and the same amount of work be given to the people who do not have work at the tea plantations. A shift of stance is thus seen in “*bhookh se mukti, har vyakti ka adhikar*” (“freedom from hunger is the right of every person”). In this way rights are recommended. A right is a demand, a claim, a proclamation of entitlement that is justiciable. Thus, a shift from “*mang*” or “appeal” to “*adhikar*” or “*haq*” (right, claim) has occurred in course of a six-year long movement. Also there is shift from politics of pleading to politics of demand, which, if unfulfilled, would either lead to clashes or dragging the aberrant authority to the court. To ensure that rights are fulfilled, requires then, a continuous momentum, which would open up for public scrutiny the gaps between rights guaranteed and their fulfilment, and thereby helping the ensuring of rights.

Perhaps “entitlement” is the concept that lends this required momentum. Entitlement comes as the other side of accountability. In fact, it is the way the state views the issue of compensation in case of death of a person while on duty, portrays in a way that shows how it sees its accountability also. For example, in Kathalguri, a completely closed down tea estate, the compensation for the loss of a family member to death while on work or work related reasons stood at Rs 8,000/-. The factory shed was subsequently broken down and the workers complaint that the union leaders have sold off its doors, windows, and bricks at the recycling market. Acts like this have led to repeated protests inside the gardens against the labour unions, which are seen to have betrayed the plantation workers systematically over the years. It is another paradox that Unions work in the tea gardens today, not for the benefit of the workers whom they stand for, but to make merry with the patronage they receive from the planters in order to keep the workers’ issues subdued. One can therefore ask who is accountable for this state of affairs—the State, union or planters?

Social security against inability to command access to food or against the inability to prevent illegal transfers of deliverables protects a person from perishing. People are enabled to access means available in the society, including the possibilities of production, trade opportunities, and other avenues of procuring food. Sitamani Orao, Mahila Jagriti Sangh, Malbazar, says, “...infrastructure development can be made in all the Gram Panchayats (GPs) to a large extent. There are social and community infrastructure needs such as planting trees, making embankments, and laying kacha and pucca roads through the coolie lines. If the Bloc Development Office would take up such projects, it would also result in an increase in the number of man days...”. In other words, the notion of social security needs to be widened and linked to the concept of right—the food right is contingent on the right to social security.

Due to the employment guarantee scheme in operation, the worker has a choice of not opting for the low paying private landlords and go to work at the NREG sites – if payment is on time. However, this choice unlike now has to be present at all time. There is palpable pressure from the tea estate owners to stop the NREG scheme. Rupees 75/- being the benchmark of minimum wage legalized by the NREG, the landlords have protested often, because they also have to pay more than what they used to pay initially to these people. This relates to the fact that in the absence of a minimum wage in tea industry in this state, workers work at much less wage on day basis, than what they would get if they had found work under the NREG scheme. There was a complete stoppage of job cards from being issued following combined pressures of the moneyed sections of society in Kacha District of Assam. Swadhikar, a civil society organization, and whose name we have referred to earlier in this account is now engaged in fighting a case in Guwahati High Court on this breach. There are two concrete grounds of suing: 1. Right to Work: The NREG says in its Preamble that it promotes right to work as a substantive right, though this was originally a part of the Directive Principles of State Policy and therefore was non justiciable; 2. Discrimination: Under the NREG, the Government guarantees work to the peasants, but here, in this case, the tea labourers are being subjected to harmful

discrimination by not being given work. This creates a breach with right to equality, a fundamental right.

In Itabhata, another completely closed down estate, every household cites at least two deaths from malnutrition and starvation. There have been repeated threats from the existing labour union, not to talk to the “outsiders” indicating the civil society organizations. Conflict with these organizations have become a regular feature after the Ministry of Panchayati Raj made it a rule that any such organization, having a valid registration number, and working in a particular area, can send a representative to the Panchayat of that area. A talk with the Dooars Jagran, one such organisation working in the Dhupguri bloc, reveals, “... It is very difficult to rule out the terror unleashed by the unions. The ration movement was some kind of an eye-opener for the people, when some inroads into union-controlled areas could be made. It happens many a time that while in course of one to one meetings with social campaigners for the right to food, the workers support to proposals formulated by the Dooars Jagran, but in union meetings, they back out...” (Partha Sarathi Bose, Dooars Jagran)<sup>15</sup>. There have been 25 deaths from 70 households in Itabhata. In Kathalguri, only two lines, namely the hospital line and the factory line, have been spared of starvation deaths; all others have seen their kith and kin die from being not able to buy food. Itabhata and Kathalguri are gardens where Dooars Jagran works.

A right over food therefore, becomes something that has to be acquired. While observing the rights movements, it is interesting to note the role women play in it. Traditionally, in the tea gardens, the womenfolk and children would be deployed for plucking tea leaves, and the men would be required to do the husbandry, i.e., cleaning up the undergrowth, maintenance of the garden, building up of roads etc. Wage payment however, would vary on gender lines though families in the garden are, in most cases, women-headed. Wage discrepancy along gender line is an acknowledged practice in this sector. While a woman labourer with two children between six and eighteen years of age has a ration entitlement of three (two plus half plus half) units irrespective of the fact that she might be having a husband, other dependants and additional number of children to feed, a male labourer is entitled to four (two plus one plus half plus half) units of ration. This leads to a further marginalisation of women working at the tea gardens. Thus even overall household food security may not be a guarantee for individual food security. (Chaudhary, Parthasarathy; 2007). Notwithstanding the crucial role played by women in tea plantation economy, household food availability does not automatically ensure food and nutrition security for women as individuals. Understandably there have been agitations by women over the deaths mentioned in this report.

### **Concluding Remarks**

The longest strike in tea gardens of West Bengal happened in 2005, when, even after so many starvation deaths, the planters refused to revise the daily wage of the labourer. About 3, 00,000 tea workers, more than half of whom were women, took part in the strike which spanned over a period of 16 days. There was an estimated daily loss of rupees 15-20 crores. Yet, the workers, on the verge of severe crisis, took

the movement forward, with having nothing more to lose. Anyone familiar with the functioning of the tea gardens would confirm that such industry-wide strike in the plantation sector is very rare.

The Third Report of the Commissioner appointed by the Supreme Court for looking into complaints made about the implementation of the food security programmes formulated by the Court during the Interim Orders issued says, "...there is still a catastrophic failure to protect the fundamental right to life enshrined in Article 21 of the Constitution and an overarching lack of State commitment to the prevention of hunger and starvation in India." It further observes that there have been routine violations of the Court orders by the respondent Governments. All Commissioners' reports maintain that employment is the best way to protect the people against hunger. Wage employment guarantee gives a kind of durable protection against vulnerability, which cannot be ensured by other means. Reports straight away point out that the BPL lists is unreliable, thereby putting a question mark on the BPL enumeration mechanism itself.

The fifth report puts on record, "...the complete lack of seriousness shown by many state governments to the implementation of schemes under review. On more than one occasion as the report will show, many states have not implemented Supreme Court's directions on one pretext or the other, and repeated orders from the Court have been blatantly ignored with no proper justification." (Fifth report of the Commissioner, 2004).

However, nothing surpasses the problem of administrative delay in implementing the rights of the people. The same could also be said about the real intention of the people who pitch in to bail the gardens out their crises. Chitta Dey, the convener of the Coordination Committee of Tea Plantation Workers, the apex body of trade unions including the CITU and the INTUC, says: "It is important for the state government to judge the potential and economic background of the willing entrepreneurs. There are instances that new companies and individuals, who had entered into an interim arrangement with old owners, had failed to meet the financial requirements after a few days, leaving the gardens inoperative again..." (The Telegraph, 04.02.2009). The tea gardens have been facing this as another crisis. Many an affluent person would come, take over the estate or a part thereof overnight, and generate new hopes among the workers who would know nothing about the deal that took place perhaps over a drink only to find out the next day that their jobs have been done away with or that the buyer was only worth a day or two to whom the former owner has sold them off. A transparent hand-over method is yet to be conceived and established.

A tradition of subservient history coupled with the present state of lack of administrative will has kept the people shackled to a non-questioning mode, where asking for food as a right is an anomaly in itself. The right to food cuts across an array of all kinds of human rights issues: such as access to health care and education, respect for cultural factors, and the right to organize economically and politically. Along with this, one has to add the rights to gainful employment and information. One of the most intractable problems relates to information dissemination. Public awareness creation depends more on non-state bodies, much more than on State

mechanisms. People are in many cases unaware of their entitlements under the food related schemes. In such a situation, where Oraons, Kherias, Chikbariks and others remain in a condition of basic rightlessness, the entire rights movement falls short of basic requirement: a persistent rights claiming population demanding food and a government that is willing to confer rights on the subjects.

## Notes

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<sup>1</sup> The Supreme Court in the hearing of the PUCL, Rajasthan, writ expressed serious concern over the starvation deaths in some States. The Court observed that the Central and State governments had the primary responsibility to ensure that the food grains over-flowing the FCI godowns reaches starving people and not wasted. The Court's anxiety was that the poor, destitute, and weaker sections of the society should not suffer from hunger and die of starvation. Schemes without implementation have been of no use.

<sup>2</sup> Supreme Court Orders On The Right To Food: A Tool for Action; was prepared by Jean Dreze

<sup>3</sup> The tea gardens were set up as isolated settlements, separated from each other and nearby hamlets by forests. Additionally, a policy of systematic exclusion was followed as far as the labourers were concerned; in order to radically disenfranchise them from whatever was happening around. The bid to exclude them from the outside world was such that plantation labourers were not allowed to move out of the gardens. There were rules, which made it unlawful for any worker to be found outside the garden s/he worked for. Such an offence would translate into a month of imprisonment and up to 30 lashes (the maximum number permitted outside public judicial discretion) of whip from the manager of the garden. In such circumstances, what followed was the establishment of ties among the labourers themselves, which sustained them at times of dire distress.

In the beginning, northern Indian plantations employed mostly indentured labour. Planters obtained and held their labourers by a harsh system. Severe penal contracts were attached. As for Assam and Darjeeling, local recruitment was to some extent limited. For Darjeeling, labour was derived from voluntary migration from nearby hill peoples of Nepal and Sikkim. Assam was relatively difficult to settle in, as it was uncultivated and consisted of nearly uninhabited jungle. Recruitment was prohibited in certain districts in Assam and the planters obtained their main labour force from the indigenous people of Santhal Parganas and Chotanagpur. The recruiting methods were akin to slavery. At the outset, a labour force must be assembled which is ready to turn its hand to every task that is required." Setting up a plantation was a delicate as well as rigorous process. It required both the planter and the wage labour to be ready for any kind of work that might be needed for the plantation to take shape. With the passage of time, salaried superintendents replaced proprietary planters. At times several estates were grouped together and placed under a "group" manager. But whatever may have been the ownership/managerial condition the status of the plantation labourer never varied much. The first problem with the recruitment of plantation labour was one of recruitment of labour from a distance. Tea plantations came up mostly in places, which had hitherto been forests. Therefore, labour recruitment involved large-scale migration: a problem in itself. Plantation labour migration was of a special category; the workers migrated from one rural existence to another, unlike many factories, the plantation requires the whole labour force of the family. Over time, the plantation becomes their home, thus uprooting them completely from their erstwhile habitat.

<sup>4</sup> The Economic Review 2004-05, page 106, Para 4.109 says, "The Tea Board should fix norms for replantation cycles for tea bushes and prepare a replanting programme for each



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garden, fixing the year wise acreage to be replanted. If the garden management does not cooperate with the Tea Boards in implementing the replantation scheme or fails to execute the scheme, Tea Board should levy a fine on the management. The Economic Review 2007-08 in Art 5.29 additionally says, the tea industry was facing a major problem with the tea prices constantly declining over the last few years till 2003. The situation has slightly improved from 2004. The average tea prices at Kolkata and Siliguri auction markets have increased significantly. Consequently the average price of tea in West Bengal has increased from Rupees 65.36 per Kg in 2003-04 Rupees 77.84 per Kg in 2006-07.

<sup>5</sup> In Para 4.110, it says, the Tea Board and the Government of West Bengal should take up with the banks the need to provide bank finance to the tea gardens for the implementation of these schemes at reasonable rate of interest of 9% . The Tea Board may formulate a scheme to provide 5% interest subsidy to the gardens for this purpose. Para 4.111 says, the Tea Board should enhance the extent of subsidy for replantation from the current level of 25% to 50%.

<sup>6</sup> The first obligation refers to the state's duty not to interfere in the livelihood of its subjects or their abilities to provide for themselves. The second obligation entails the creation of a regulatory environment conducive to the protection of the right to food (the state, for example, has a responsibility in setting food safety standards, and in protecting land tenure system). The third obligation requires positive action by the state in identifying vulnerable groups and in facilitating their access to food-producing resources or income generation [FAO 1998]. States are obliged to take all appropriate steps to achieve progressively the right to adequate food, subject to the maximum of their available resources.

<sup>7</sup> This concept is borrowed from Amartya Sen and Jean Dreze in *Hunger and Public Action*

<sup>8</sup> The Swadhikar is a civil society organisation operating in the Dooars under Registration Number S/IL/10289 of 2002-03. It works in areas of mobilization of mass opinion by making information available to the people. The tea workers constitute one of the principal people with whom the body works.

<sup>9</sup> This is based on an interview with a Chikbarik family at the Kathalguri tea garden on 22.09.2008 at the labour quarter habitat of the family. The principal interviewee was Mr Gopal Chikbarik, who was the Munshi of the garden at one point of time. His sons could not find suitable jobs at the tea estate and therefore travel daily to Bhutan and work there as daily wage-labourers. The Chikbarik family is a classic example of deprivation in the tea industry.

<sup>10</sup> These are excerpts from interviews with women workers associated with Mahila Jagriti Sangh members Jashomati Oreo, Betguri tea estate, Malbazar Bloc and Seetamani Oreo, Dandim Tea Estate, Malbazar. The interviews were done at a weekly gathering of the Self Help Group on 21.09.2008 at their office in Malbazar, Jalpaiguri.

<sup>11</sup> This is based on an interview with Tapas Modak on 22.09.2008 at Jalpaiguri town.

<sup>12</sup> This is on the basis of a one to one interview done with Jashomati Oreo mentioned earlier on 23.09.2008 after a meeting of Mahila Jagriti Sangh.

<sup>13</sup> This is based on the excerpts from an interview with Sibani Oreo, Wasibari tea estate who had come to attend a meeting of the Mahila Jagriti Sangh at the Kalchini Bloc on 21.09.2008.

<sup>14</sup> This is based on a one to one interview with Phulwanti Kharia from Bhernoberu tea estate on 24.09.2008.

<sup>15</sup> This is based on an interview on 24.09.2008 with Mr Partha Sarathi Bose of Dooars Jagran, a CSO working with the tea labourers in the Dhupguri Bloc of Jalpaiguri.

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**Annexure I**

The image shows a handwritten document in Odia script. At the top right, there is a date: 20/1/09. On the left side, there is a stamp that reads "Block Development Office Mayasagun". The main body of the document contains several lines of handwritten text, which appear to be a report or a list of items. At the bottom, there are three signatures: "Bhangamali", "PO- Chura Bhandari", and "DTS- Galpaiguri".



Annexure III

29/9/87  
Block Development Office  
Maynaguri



Swadhikar

Legislation: Non Govt. Organisation Regd. No. 518/10293.J/02-03

To The B.D.O.  
Maynaguri Block,  
Dist. Jalpaiguri

- বিষয় (1) N.R.E.&A. অনুসারে সামাজিক নিরীক্ষন সভা ও গনশুননী  
(2) কুড়াডাঙা গ্রাম পঞ্চায়েতের অন্তর্গত গোদামাছী গ্রাম, ওয়ার্ড-৯-৩৪

শ্রদ্ধাশীল  
তিন মাসের মধ্যে মোট NREGA অনুসারে আমাদের জোনায় 100 দিনের কাজ  
করা হয়েছে। আমরা কেউই ১০০ দিনের কাজ কোনওভাবে 100 দিনের কাজ  
পাই নি। কুড়াডাঙা অধিবাসিনীদের এই কাজ হয়েছে। যাতে তারা গুরুত্ব  
এই অর্থে অনুসারে সামাজিক নিরীক্ষন সভা অনুষ্ঠান করা এবং  
অন্য মাঠের কাজের পরিচালনা সহ অন্যান্য পরিচালনা সভা করা এবং  
আজ পর্যন্ত আমাদের গ্রাম-৩৪ সভা ওয়াশিং আনয়ন। গোদামাছী গ্রামের  
মানুষেরা যাই অধিবাসিনীদের আনয়ন করতে এই সভা ওয়াশিং আনয়ন  
আপনি নিজ উদ্যোগে করুন। যে সভায় আমরা আমাদের অধিবাসিনীদের  
সহ NREGA অনুসারে কাজের নাম পরিচালনা সভায় আমাদের পরিচালনা  
করে। সভায় যিনি বৈধভাবে আসার নিশ্চিত করা হবে। সভায় পরিচালনা  
সভায় ও কুড়াডাঙা সভায় সভায় সভায় সভায়। সভায় পরিচালনা  
করানি ও কুড়াডাঙা সভায় সভায় সভায়। সভায় পরিচালনা  
NREGA-র কাজ করা হবে।  
সভায় পরিচালনা গোদামাছী গ্রামের অধিবাসিনীদের আনয়ন নিশ্চিতকরণ  
সভায় পরিচালনা কুড়াডাঙা অধিবাসিনীদের আনয়ন নিশ্চিতকরণ  
আপনি এই সামাজিক নিরীক্ষন সভা অনুষ্ঠান করতে পরিচালনা  
NREGA-র কাজ করা হবে।

কুড়াডাঙা  
গ্রাম পঞ্চায়েত (Staff, Swadhikar)

- Copy to,  
(1) কুড়াডাঙা গ্রাম পঞ্চায়েত  
(2) State Co-ordinator.

অন্যান্য কর্মসূচীতে নাম ও কাজের পত্রের কপি



**Annexure V**



Map not to scale

**Jalpaiguri District**

Source: <http://www.north-bengal.com/places/jalpaiguri/map.htm>

Tea gardens mentioned in the paper are situated in the following blocs:  
Mataili, Nagarkata, Kalchini, Dhupguri, Mainaguri.