



## Democracy, Governance and Social Welfare : A Reality Check in Odisha

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Good governance is the combination of democracy, the social welfare and the rule of law which aims at making the administrative structures effective, efficient, participative and solution-oriented, which provide optimal support to citizens in leading a safe and productive life in line with their desires and opportunities.

Democratic government and generous social provisions are the qualities of a good society. Democracy and social welfare policies are inter-related in so far as democracy presents the specifically favourable conditions for sustainable social provisions. Democracy in turn requires an effective state, because the state alone can create the conditions for the effective exercise of citizenship, provide and sustain the framework within which the rights and obligations of citizens can be respected and guaranteed, and arbitrate and resolve disputes about these.<sup>1</sup> Thus democracy and social welfare policies are inter-related. An effective democracy is impossible without the state and democracy is hard to sustain without effective state institutions. Democracies present specifically favourable conditions for sustainable social provisions.<sup>2</sup> This led to the development of welfare state where democracy and state combined together, directed substantially towards the redressal of inequalities in the ownership of means of production.<sup>3</sup>

Welfare rights are a charter of the state's good intention on a number of matters including socialism. Social welfare is about how people, communities and institutions in a society take action to provide certain minimum standards and certain opportunities. It is generally about helping people facing contingencies.<sup>4</sup> The case studies taken up are an attempt to show the effectiveness of the social welfare policies of the Government in the State of Odisha.

### **The Forest Rights Act (2006)**

The scheduled tribes and other traditional forest dwellers (Recognition of Forest Rights Act, 2006) is a result of the protracted struggle by the marginal and tribal communities of our country to assert their rights over the forestland over which they were traditionally dependent. This Act is crucial to the rights of millions of tribal and other forest dwellers in different parts of our country as it provides for the restriction deprived forest rights across India, including both individual rights to cultivated land in forest land and community rights over Common Property Resources. The notification of rules for the implementation of the Forest Rights Act, 2006 on 1<sup>st</sup> January 2008, has finally paved the way to undo the historic injustice done to the tribal and other forest dwellers. The Act is significant as it provides scope and historic opportunity of integrating conservation and livelihood rights of the people.



The Act is perceived as a potential tool :

- To empower and strengthen the local self governance,
- To address the livelihood security of the people, leading to poverty alleviation and pro-poor growth,
- To address the issues of conservation and management of the natural resources and conservation governance of India.

As per the projections of Ministry of Environment and Forest (MOEF), more than 50,000 ha of forest area will need to be diverted for coal exploration and production in the next seven to eight years, only for Coal India Ltd. Apart from coal there are many more developmental projects that may require diversion of forest land in the near future. This figure is really alarming, but in a significant move the Ministry of Environment and Forest (MOEF) has made it mandatory that any such proposals involving diversion of forest land have to be backed by the consent of the corresponding Gramsabhas. This radical move to involve the Gramsabha has ensured the empowerment of the local people and enabled them to switch from being mere onlookers to major decision- makers in the protection of their forests and environment.

Before the inception of the (Forest Rights Act) FRA 2006, the Forest Conservation Act (FCA) and the Wildlife Protection Act (WPA) had some checks and balances for the diversion of forest land but these left out the local communities, due to which the forest land was diverted for various commercial purposes even inside the protected areas, where the rights of local people have been severely infringed.<sup>5</sup>

After the Gazette Notification of Forest rights Act 2006 in Orissa, more than 30 projects have got final forest clearance in the State which are as follows:

### The projects approved in Orissa

Projects	Approval	
	2008	2009
Mining	26	09
Irrigation	05	00
Others	03	02

Source: [www.fra.org.in](http://www.fra.org.in)

### Status of Forest Rights Act Implementation in Orissa: As on 31<sup>st</sup> July 2009

No of claims verified by FRC and submitted to gram sabha (palli sabha)	No of claims approved by Gramsabha (palli sabha) and forwarded to SDLC	No of claims approved by SDLC and sent to DLC	No of claims approved by DLC for titles
Individual claims 291156	158480	44567	36792
Community claims 1656	589	116	100

Source: Ministry of Tribal Affairs, Government of India ([www.tribal.nic.in](http://www.tribal.nic.in))

The recent order issued by the Ministry of Environment and Forest is a welcome step for giving further teeth to the Forest Rights Act, 2006 as it also clarifies that forest land cannot be diverted without first settling the individual and community rights of tribals and other traditional forest dwellers.<sup>6</sup>

In keeping with the above declaration, in Orissa forest clearances of 466 projects (90 'in principal' clearances and 376 final clearances) have been approved of which around 45 projects have been given forest clearance after the notification of Forest Rights Act, 2006. On the whole a sign of positive change has dawned, with the new order of the Ministry of Environment and Forest in hand, in so far as the local communities



in the State now have a major role in ensuring that their traditional rights over their habitat and habitation are respected and recognized and that destruction of forests is not at their cost. The tribal communities are allowed to participate in protecting forests and its resources.<sup>7</sup> The Forest Minister of Odisha ensured that the Vedanta Group complied with all the provisions of the Forest Rights Act, 2006 and the consent of the Gramsabha with at least 50% quorum was obtained before final forest clearance was considered.

The Jungle Adhikar Surakhya Mancha,<sup>8</sup> a network of forest dwelling communities have submitted a charter of demands which are as follows:

- Appointment of special officer at SDLC for regular monitoring,
- Sensitization programmes for FRC and verification team members on FRA,
- Sensitization programme on PTG'S rights to implementing bodies,
- Supply of village maps and other required documents,
- Cooperation of Forest Department in verification,
- Verification of CFR,
- Written acknowledgement by SDLC on receipt of claims from FRCS,
- Sharing of field visit plan with concerned Gramsabhas.

Taking into account the above demands the State government has taken the decision to:

- Constitute Forest Rights Cell at SDLC level for coordination, guidance and monitoring of FRA,

- DFO would supply required maps to respective Tahasildars,
- ITDA would release Rs 5000/- to each Tahsildar for carrying out planned activities,
- Concerned BDOs and Tahsildars would ensure the approval of claims by holding Gramsabhas.

### **NREGA: National Rural Employment Guarantee Act (2006)**

The NREGA now called Mahatama Gandhi Rural Employment Guarantee Act came into effect in different states including Odisha from 2<sup>nd</sup> February, 2006. The social welfare programme taken up by the state government is primarily intended to enhance the livelihood securities of the people in rural areas by supplementing wage employment opportunities to the unskilled labour force. The programme is in force with the intention that it would act as a strong safety net for the poor in the wake of lack of alternative employment opportunities. In an attempt to ensure the rural economy to grow, the scheme is expected to regenerate the rural natural resource base for suitable livelihood by carrying out soil and water conservation activities (Sen, 1981). It is the only programme in the history of India's development initiatives which has been in force with an enactment of the act of the parliament. With a mandate to guarantee 100 days of employment to a rural household, the scheme is intended to guarantee employment to all those who demand works, failing which employment allowance are to be paid.<sup>9</sup>

The tremendous potential of NREGA in the State can be analyzed on the ground that workers are earning close to and sometimes more than the statutory minimum wage of Rs 70/- per day and that wages are paid within 15 days or so. There is an unprecedented opportunity for the



rural poor, and there is evident appreciation of it among the casual labourers and other disadvantaged sections of the population. Some of them even hope that NREGA would enable to avoid long- distance seasonal migration, with all its hardships by creating livelihood opportunities. Further, there is plenty of scope for productive NREGA works, works whether it is in the field of water conservation, rural connectivity, regeneration of forest land or improvement of private agricultural land. These are the different areas which stand in significance for the rural poor, providing employment guarantee and side by side building up robust infrastructure in rural areas. At the district level OREGS operates and the emphasis is laid on rural connectivity for providing all weather accessibility to the villages having population of more than 1000.<sup>10</sup>

Besides the government has taken the initiative to enhance the institutional capacity along with making improvements in the deliverance and decision-making systems. The emphasis is laid on appointing a suitable technical person in the form of JE (Junior Engineer) at the Grampanchayat level for the purpose of daily measurement of works, so that the Junior Engineers at the Block level are not overburdened with work.

It has empowered Gram Sathi to Gram Sanjojak and the Gram Sanjojaks are paid the wages of a semi-skilled labour irrespective of how many labourers he mobilizes. The MOUs has been signed with SBI (State Bank of India) to put business correspondent to make wage payment at panchayat level.<sup>11</sup> The Biometric identification system has been developed to stop malpractice and ensure payment of wages fairly and swiftly. The state has associated the line departments who would submit their plans to District Planning Coordinator (Collector) and then the projects would be aligned to NREGS. The

state is also networking with the NGO's to organize job seekers and give them work training. The MOUs with NGOs have been signed on the basis of their core expertise and definite objectives for social audit at Block level and Panchayat level. The emphasis is on the institutional space for NGO's in the NREGS to enhance their credibility to ensure 100 days work, worksite facilities, weekend for workers and proactive transparency, through the provisions of social audits and RTI (Right to Information).<sup>12</sup>

The trend of incidence of poverty in Odisha has decreased considerably. During 1973-74 it was 66.18% and has reduced to 39.9% during 2004-05.<sup>13</sup> Till the end of the last financial year, more than 6.12 million job cards have been issued to the households in Orissa. Out of them, during the financial year 2008-09, about 1.13 million (18.51%) households demanded jobs and employment was provided to over 1.1 million households. Little over 44000 households were provided stipulated 100 days of employment during 2008-09.<sup>14</sup> The (PRIs) Panchayati Raj Institutions are playing a significant role in disseminating information on NREGS rules and regulations. A large section of the respondents from the age group of 30-50 years depend on these sources for information. This may be due to the fact that while the socially and academically backward respondents are not capable enough to access information from the media or government notification, the job-seekers of the middle age groups keep close contact with Sarpanchs or Ward Members for the same. Further efforts have been made that works are undertaken within a radius of maximum 5 km. Such proximity of workplace from home also encourages the job-seekers, especially the women by providing various on-field facilities to work under the scheme as they have generally a very limited mobility away from their home. The



females and the socially weaker sections have largely benefited from the NREGS in so far it has helped them to look beyond domestic chores and search for employment opportunities to bring in economic solvency of the family as well as to facilitate their economic and social empowerment.

The state has given due emphasis on different kinds of works undertaken under NREGS which includes water conservation, irrigation facilities, renovation of ponds, construction of rural roads. It has ensured conservation of natural resources and creating tangible asset for the community in addition to generation of necessary employment opportunities. Such efforts towards water conservation has facilitated and other farm activities and hence towards sustainable development of the concerned Panchayats in a considerable way. The selection of the works on the basis of community requirements has led to the effective participation of the villagers in the decision-making process of NREGS which is essential in successful implementation of any scheme in a democratic set up like India.

Despite the successful implementation of the NREGS in the state various gaps remain to be filled. The procedural ignorance or lack of awareness among the people is taken to be a common reason for not applying job cards. The remedy has been sought in imparting regular training and sensitization programmes for the Sarpanchs who play a vital role in planning, designing and implementation of the NREGS. They are well aware of the procedures and processes of the NREGS. The training programmed will help in enhancing their functional competencies.

Creating awareness and improvement in education is necessary not only to motivate the people to work under the scheme but also

encourage them to participate in its planning and implementation. Efforts should be made for greater community participation, information sharing and expression of opinion by the rural mass and development of social networks. These mechanisms can empower communities, to strengthen democratic process and make the scheme inclusive and thereby can help in maximizing returns from it.

There is a suggestion for proper manpower planning under the scheme. The scheme should have a separate (at least partially) implementing agency. As per the provisions under the NREGA, there should be a district level cell for NREGS. This cell can function as an adjunct body of DRDA (District Rural Development Authority) with the Project Director of DRDA leading the same. Additional staff should be appointed to work in the cell exclusively for the NREGS. This is likely to ensure better coordination of activities under the scheme and the same structure can be followed at the Block level and the Panchayats.

### **Right to Information Act 2005**

The Right to Information is generally regarded as one of the most important cornerstones of participatory democracy because public access to information instills spirit of accountability and transparency in governance. Right to Information is also seen as a corrective instrument, to check corruption, secrecy and bureaucratic apathy towards citizens. Thus in this era of information revolution and globalization, Right to Information is a pre-requisite for a healthy democratic structure. Indian Parliament enacted the famous RTI Act in 2005, which makes access to information as fundamental right of the people. Enactment of the Act is the result of a long struggle for freedom of information throughout the country spearheaded by Mazdoor Kisan Sakthi



Sangathan (MKSS) and National Campaign for People's Right to Information (NCPRI)

RTI (Right to Information) central monitoring mechanism named as "Lok Sookhana" is a central monitoring mechanism by Government of Odisha to ensure the implementation of Right to Information Act, 2005 at all public authorities of Government of Odisha. This is developed with an objective to provide single point access of all Right to Information catering to section -4, section-25 of Right to Information Act, 2005 in an uniform manner. The project is monitored by Department of Information and Public Relations, Government of Odisha (Nodal Department of Government of Odisha for RTI implantation) in collaboration with Luminous Infoways. Content on this website is published by respective public authorities and managed by Information and Public Relations Department, Government of Odisha.

Odisha holds a prestigious position as far as much hyped Right to Information is concerned. The performance of the State in accepting applications and their disposal is outstanding. At the same time its performance has also been highly acclaimed by international bodies. According to the Ex-Chief Information Commissioner of Odisha, Mr.D.N.Padhi, the activity of the Commission has crossed the boundaries of the country since the World Bank and other international organizations have acclaimed its performances. The state has finalized 830 cases in just one and a half years which is a leading figure in India.<sup>15</sup> But the common men, villagers and the civil society are yet to take advantage of the law. Whereas in most of the cases Government servants are seeking information regarding their personal matters like promotion, gratuity etc, the common men, villagers and the civil society are at the receiving end. According to the Chief Information Commissioner, when people will seek information as to the implementation of different

welfare schemes, social programmes like construction of roads, drains in NACs, municipalities or villages, the very purpose behind the implementation of Right to Information would be served. At the same time it would reduce the expenditure of the Projects.

Taking into account the above view and recognizing the unique importance of Right to Information as a transformative tool for bringing about a transparent, responsible and responsive system of governance in the poor and backward society of Odisha, the Odisha Right to Food campaign, an informal network of activist groups launched a state-wide campaign for ensuring a proper operationalisation of the Right to Information Act, 2005 soon after it was notified on the Gazette of India in June 2005 last. In keeping with its strategy to mobilize as many civil society groups as possible in the campaign process, the Odisha Right to Food campaign encouraged the formation and growth of an open-ended platform to spearhead the campaign for Right to Information covering the whole state.<sup>16</sup> The specific objectives of the campaign were:

- a) To contribute to the advocacy efforts then going on at national level for pressing the central Government to frame citizen-friendly rules as mandated by the Central Act; and more importantly.
- b) To effectively lobby with the state Government of Odisha to make the state rules under the Act as much pro-poor as possible keeping in view the interest of the overwhelming bulk of the state's population.

The campaign was formerly launched from a two-day state level seminar held at capital city of Bhubaneswar on 12/13<sup>th</sup> September 2005, in which articulate representatives from cross-sections of society, legislators, bureaucrats, legal experts, academia, NGOs, panchayat leaders and



media persons etc. took active part. From the rostrum of the seminar and in a pre-emptive bid, a comprehensive memorandum was addressed to both central government and state government of Orissa to ensure that the rules to be framed by each government should perfectly accord with the letter and spirit of the historic law. The said memorandum did also call upon all the public authorities at central and state level to make proactive disclosure of 17 categories of essential information in a manner accessible to the public as required under Section 4 of the Act<sup>17</sup> which includes that:

- a) each public authority shall maintain the registers for recording the particulars of the persons seeking or inspecting information along with the fees collected from them and;
- b) The said registers shall remain always open to inspection by the public.

Again financial punishments have been awarded to various high ranking officers in the state recently by the commission which has spread panic among the neglecting officers. To carry the message of the campaign further across to other states and networks at national level, a website has been launched at [www.orissarti.com](http://www.orissarti.com) and the events and memoranda of the campaign have been displayed there for perusal by all.

### **The RTI and NREGA in Odisha**

The Right to Information Act powerfully supplements the transparency provisions of the NREGA 2005 and its operational guidelines. Deliberate use of the Right to Information Act is an essential tool for effective implementation of the Employment Guarantee Act.<sup>18</sup>

As per the provisions of the Act, Right to Information gives the citizen right to access any record related to their work. Proactive disclosure of information is the first step in Right to

Information. Proactive disclosure implies the primary responsibility of the government agencies to disclose the details to the people without their formal application. It is a proactive effort and concern towards accountability norms and principles. As per Section 4 of the Right to Information “key documents related to NREGA should be proactively disclosed to the public, without waiting for anyone to ‘apply’ for them.

The most significant aspect of NREGA in the state of Odisha is the increasing assertion of people who are working under the scheme, using the Right to Information Act. The process of training and spreading awareness on the act by social activists and NGOs has created a situation wherein people are reported to be demanding their job cards, jobs, receipt of applications, etc by way of staging Dharnas and writing complaints.

A group of people in Narla block of Kalahandi district had staged a Dharna in front of the BDO's office to demand their unemployment allowance. The BDO had to accede. Both the Gram Panchayat and Block level authorities of Ullunda Block of Sonepur district denied receiving work applications from villagers. The applicants sat in a Dharana in front of the Block Office till their applications were acknowledged and they were given dated receipt by the BDO.

Moreover, the e-group has intended for discussion on various aspects of the NREGA in Odisha, its practice, adherence and violations. It has nearly 400 members from government and non-government organizations, NREGA activists and members of the Central Employment Guarantee Council (CEGC). This mixed and learned membership has urged the government to respond to postings on the e-group.<sup>19</sup>

The members of the Central Employment Guarantee Council (CEGC) visited three districts



of Kalahandi, Sundergarh and Mayurbhanj from 20<sup>th</sup> to 23<sup>rd</sup> November 2007 and interacted with Chief Minister, Panchayati Raj Minister, Chief Secretary and the officers of the Panchayati Raj Department. The focus was to bring about some systematic changes for better implementation of the scheme. Following up on the demands, the Government has taken the following vital decisions:

- There will be columns for wage payments in the JC.
- The Gram Rojgar Sevak will be responsible for distribution and maintenance of the JCs.
- Contractors will be banned in NREGA works. This has been ensured by instructing the JEs and VLWs, in whose names work orders are issued, to strictly abide by this provision and entrust the work to VLLs selected by Palli Sabha and not to the contractors.
- Following the Andhra model, the Government has announced the appointment of one lakh Gaon Sathis to help coordinate and assist in NREGA works along with helping JEs in work measurement.
- The Government has requested the National Institute of Rural Development (NIRD), Hyderabad, to conduct 40 Social Audits in 19 districts (which were covered in the first phase of implementation by the end of February, 2008).

Complimentary to the visit of Central Employment Guarantee Council's members, a state level public seminar on NREGA was conducted by the social activists of the State where people from various districts presented their cases and grievances. As per reports there are efforts on part of the state government to take prompt action on complaints and putting in place

effective grievance redressal mechanism and use of single, uniform, numbered muster roll throughout the State.

### Conclusion

Despite many shortcomings in the implementation of the Act, it has been proved beyond doubt that NREGA is a classic legislation providing guaranteed entitlement to the rural folk. Eventhough it has not been able to check distressed migration from rural Odisha, in the long run, it can check the same, as the migrant labourers are of the opinion that if they get 100 days of assured employment in their villages they would not venture out of the state.<sup>20</sup>

In the words of Jean Derze, "The fact that the whole state administration has been alerted to put NREGA in priority list is itself an achievement,". In fact, the legislation has brought about a new ray of hope among the people and the civil society organisations. Comparing the initial period of implementation with the current position, the act has got a proper direction in the State and things have started falling in line.

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