

CASE STUDY

Uttar Pradesh, India

36

Activating the National Human Rights Commission to secure land and homes for Muhasar people

The Social Development Foundation (SDF) sent a petition to the National Human Rights Commission (NHRC) of India to solicit food and housing rights for the Muhasars, one of the poorest Scheduled Castes (SCs) in Udayapura village, Uttar Pradesh. Thanks to continuous advocacy during four years, the district administration's attitude changed. Not only land for housing, food subsidies and schooling was provided to the villagers, but also services such as electricity, water and sanitation.

PRINCIPAL ORGANISATIONS INVOLVED

Social Development Foundation (SDF)

LOCATION

Udayapura village, Pathardeva Block, Deora District, Uttar Pradesh, India

TIMELINE

1994 - 2012

TARGET AUDIENCE

Civil Society Organisations, the National Commission for Scheduled Castes and Scheduled Tribes, the State and National Commissions for Women, State and district level officials

KEYWORDS

Human rights, laws, community empowerment

INTERNATIONAL
LAND
COALITION

UNITED
FOR LAND
RIGHTS



GOOD PRACTICES

Towards making land governance more people-centred

This case study is part of the ILC's Database of Good Practices, an initiative that documents and systematises ILC members and partners' experience in promoting **people-centred land governance**, as defined in the Antigua Declaration of the ILC Assembly of Members. Further information at www.landcoalition.org/what-we-do

This case study supports people-centred land governance as it contributes to:

- Commitment 1** Respect, protect and strengthen the land rights of women and men living in poverty
- Commitment 2** Ensure equitable land distribution and public investment that supports small-scale farming systems
- Commitment 8** Ensure transparency and accountability

Case description

Background issues

This case is about change in the conditions of 500 Muhasar households who lived in mud and thatch huts at the outer end of the Udaipura village, Uttar Pradesh. Before SDF's intervention, the village did not have any roads, electricity, toilets, piped water, school or access to food subsidies and health care. The Muhasars could not access schools and hospitals as they - like other Scheduled Castes - were considered dirty and not worthy of being treated as equals by the upper caste people of the village.

The Hindu Caste system assigns occupations by birth. These are maintained through norms of interaction that are strictly followed, tolerated behaviours and violence. Muhasars are a sub-caste of Dalits. They are at the lowest level of this caste's hierarchy. Traditionally they have kept land owners' agricultural land free of rats - the only compensation for this work being the rats themselves, consumed as food (Rawat 2004).

The Indian Constitution refers to the Dalits as "Scheduled Castes" (SCs), because the term Dalit conveys a sense of continued oppressions that the Constitution seeks to abolish. According to the results of the 2011 Census, while SCs account for around 16.6% of the Indian population, they have access to and control on less than 5% of the country's resources. 67% of SCs' people are landless and poor. They do not have enough self-esteem to ask for essential services. They live in conditions of poverty, marginalisation and humiliation that it is hard to change.

The Schedule Caste and Schedule Tribe Prevention of Atrocities Act (POA) was instated to guarantee equal rights. However, the exclusion of Dalits continues due to social hierarchies and boundaries. The National Human Rights Commission of India (NHRC) has the role of protecting and promoting human rights. Violation of human rights must

be reported to the Commission through relevant authorities, acting within the framework of the existing rule of law and human rights.

Uttar Pradesh is known for its feudal land relations and related violence to maintain land holdings. SCs' people were given land following a decision of the village council. However, they were violently forced by landlords to give up on it. The Zamindari (or Feudalism) Abolition and Land Reform Act (UPZALRA 1950) acknowledged that SCs were landless. The Act ensured the security of non-transferable tenure for these people on the village council land, whenever they could prove the use of the land for either habitation or agriculture on 13 May 2007.

Often the public schemes meant for the poor do not reach the people who need assistance. For example, the Scheduled Caste Sub-Plan (SCSP) was launched in Uttar Pradesh in 1980-1981 to provide assistance to SCs. Between 1995 and 1996 the State's Government used 21% of its budget for this programme. The Social Welfare Department was declared as a nodal department for the formulation and monitoring of Five-Year and Annual Plans for SCSP. Although the Social Welfare Commissioner was authorized under SCSP to allocate outlays areas inhabited by Dalits, district officials, as well as the Dalit people themselves, were not aware of the possibility of utilising these provisions for welfare. Furthermore, Dalit people did not know that tenure security was their right.

Solution

Human rights for the Muhasars were guaranteed as a result of SDF's work. SDF showed through research that Muhasars were suffering from severe rights' violations. They shared documentation with different commissions, raising awareness and recommending actions to address this issue. At the end of a long and slow process of advocacy with the NHRC and the district's authorities, SDF managed to obtain land titles for Muhasar families. After land was secured, Muhasar people had their houses built on their land as part of a publicly funded Community Housing Project.

Activities

The work of SDF in Udaipura begun in 1996 when they collected evidence to raise awareness on the plight of the Musahars. Two independent films were produced to raise awareness on the inhuman conditions in the community. Print and electronic media's attention was also drawn to the case of the Musahars.

In 2005 SDF prepared a report on the conditions of Musahar people in Udaipura. Data for the report were collected by volunteers trained by SDF. Based on this report, SDF produced recommendations and demanded that the village council land was used for Muhasar families to build their houses.

With the objective to support the Musahars in improving their living conditions and fulfilling their rights, SDF approached the National Commission for Women, the Minorities Commission and the Commission for Scheduled Castes and Scheduled Tribes on different occasions. However, they did not receive any response. Therefore, they approached the NHRC.

In 2006 petitions were submitted to the NHRC reporting the violations of landlords and demanding land for Muhasar people's houses. SDF supported the villagers - most of

them illiterate - in writing the petitions. After the petitions were filed, the district authorities received a notice from the NHRC to submit a status report in 2007.

District officials visited the village in 2008. They asked for information in a manner that intimidated the Muhasars. Fearing a backlash, many people in Udaipura either kept silent or left the village while the officials were there. However, the arrival of the officials' vehicle also gave confidence to other people, who explained the situation in the village, where food and water were lacking.

It took yet another year for the authorities to submit their report. In 2009 Muhasar families finally had a new hand pump installed by the administration. District magistrates sent an Action Taken Report (ATR) to NHRC stating that all violations had been addressed.

The NHRC asked SDF to comment on the District Magistrate's ATR in 2009. SDF stood by their earlier report on the violations of human rights and gathered fresh evidence to show that violations of human rights were still perpetrated and Dalits continued to live in inhumane conditions.

The District Magistrate agreed to have a discussion with SDF. He became more proactive and willing to address these violations. He organised the setting up of a base to tackle the situation on site. After making an independent assessment, the District Magistrate approved that the village council land was given to Dalit families with individual titles. On their land, families could have houses built through the Muhasar Community Housing Project, funded by the central government.

Importance of the case for people-centred land governance

By documenting and reporting the appalling living conditions of the Muhasars, SDF obtained the fulfilment of land and housing rights for these people. SDF promoted a constructive engagement of district officials with the NHRC and the community, which resulted in a significant improvement of Muhasar people's situation.

Changes

Baseline

Before SDF's intervention Dalit families in Udayapura were landless and living in thatched huts. The people of this socially marginalised community on the verge of starvation had no access to electricity, schools and health services. They would not perform any paid work because of their lack of education and awareness of their rights. Annual floods from the river Khanua often submerged the village. The main livelihoods of the Muhasar people would be the collection of forest leaves to make plates, piggery and rat hunting. They would not be listed in voters' lists, so their political participation was de facto prevented. Humiliated because of landlessness and unemployment, the

community maintained a culture of silence to avoid violent backlash from the upper caste of the village.

Achievements

Awareness of human rights was raised. Thanks to the authority of the NHRC the human rights framework became clearer for the district administration and the village council. The administration stood corrected after the NHRC asked SDF to respond to their first ATR. NHRC used SDF's follow up report to defend the rights to land and access to services. Musahars are now more vocal and aware of the possibility to use different tools to become informed. For example they have started utilising the Right to Information Act to ask for official requests to activate their human rights entitlements, whenever this information is not readily available for them.

92 Dalit families obtained tenure security on land. They also received grants to build 95 houses through the central government scheme called the Indira Awas Yojna. Having land ownership papers and living in a *pucca* house (an all-weather solid concrete house) was a big change for families that had lived under thatch roofs for generations. This increased the Musahars' self-esteem and induced them to consider themselves as citizens and rights holders. For the first time Musahars in the hamlet had titles on their land and they were the owners of the houses they lived in.

Services in the community improved with the availability of drinking water, a drainage system, toilets, street lights and an access road. By 2011 the entire village was equipped with solar-powered lighting. Children, who were used to being discriminated against, got scholarships and began to attend school with more regularity.

Evidence

Rawat, V.B. (2004). *Mushhars: Tales of untold miseries*
www.righttofoodindia.org/data/rawat_musahars.doc

Rawat, V.B. (2006). *Is death better than life for Musahars of Kushinagar*. Countercurrents
<http://www.countercurrents.org/rawat201206.htm>

Lessons learned

Lessons for civil society

- It is important to encourage dialogue amongst institutions and between institutions and civil society. SDF's intervention changed the behaviour of the district officials. Before responding to NHRC the second time, they took action to introduce positive changes in the Musahar community. This resulted in a greater change than what SDF had demanded in the NHRC petition.

“Two decades ago land was a demand. It became a right. Muhasars can now live in dignity, as they have homes that no one can evict them from “
Vidya Bhushan Rawat

- It is crucial to raise awareness on human rights and relevant violations within institutions. In the Musahars' case people in institutions understood that human rights violations had to be addressed.
- Stakeholders take action more quickly and effectively when entitlements are requested within the framework of human rights fulfilment.
- Consistent and collaborative interaction is necessary when engaging with national and state institutions. Dialogue and facilitation are more effective than aggressive and antagonistic confrontation.
- Evidence gathering is essential when claiming land rights. Authorities are more inclined to respond when claims are based on facts that cannot be disputed.

Lessons for policy makers

Collecting data for a baseline is essential. Particular attention should be paid to the conditions of minorities and women. This is crucial for monitoring the impact of each scheme and the existence of resource gaps, as well as for planning at the state and central government level.

Using human rights instruments and mechanism to procure land rights is effective. It demonstrates that ensuring land rights fulfils a range of associated human rights.

Challenges

Many Muhasars continue to be oppressed by the village upper caste. They face backlash at the local or state level when they obtain benefits that are not approved by upper castes. This is why the village council originally gave rights of use only on land, so land could not be inherited.

The State Cabinet in August 2015 approved an amendment to the UPZALRA with the aim to simplify the procedure for enabling a land owner belonging SCs to sell or transfer land. The law was repealed. The hard work of communities and human right defenders is constantly challenged by social constraints and the market economy.

Follow-up

SDF relentlessly encouraged the community to continually visit district officials with written communications. SDF's School called *Koshish* (meaning "attempt") is providing support through a literacy programme. In 2010 community members got land titles on village council land to construct houses. The activation of the NHRC took a period of five years. During this time the district administration and the village council became more proactive on their own in responding to written and verbal requests for information or action. Inspired by the possibility of utilising existing resources for village development the district administration has begun to work on the provision of further services in the village.

Since human rights are continually under threat and caste violence has not yet disappeared, it is important to nurture a culture of respect for human rights.

Supporting material

References and further reading

Bhardwaj, S. and Nair, E. (2013) Dalit women and resources. SAFF
https://www.academia.edu/7658436/Dalit_women_and_resource_rights

Government of India, Ministry of Home Affairs (2011). *Census 2011*
http://www.censusindia.gov.in/2011-common/census_2011.html

Koshish School, Mushahar Tola, Village Malwabar, Bhagochghat, Block Pathardeva, Deoria District, UP (unknown)
http://www.ccic.ca/_files/en/working_groups/2011_04_SDF_India_Koshish_School.pdf

Macwan, M. (unknown). *Dalits and agenda for social transformation*
http://navsarjan.org/dalits/DALIT_social_transformation.pdf

Rawat, V.B. (2004). *Mushhars: Tales of untold miseries*
www.righttofoodindia.org/data/rawat_mussahars.doc

Photos, videos

Action Aid, video on Dalits in Uttar Pradesh <http://www.actionaid.org/india/films-stories/films-interviews/musahars-uttar-pradesh-short-feature-loksabha-tv-part-i>

Contacts

Social Development Foundation (SDF)
188 Master Block, Street No 5,
Shakarpur Extension, Delhi-110092
India



All our publications are licenced under the Creative Commons Attribution- NonCommercial 4.0 International (CC BY-NC 4.0). The contents of this work may be freely reproduced, translated and distributed provided that attribution is given to the International Land Coalition and the article's authors and organisation. Unless otherwise noted, this work may not be utilised for commercial purposes. For more information, comments, as well as copies of any publication using it as source please contact info@landcoalition.org or go to <http://creativecommons.org/>

Suggested citation: Bhardwaj, S., Cherlet, J. and Baldinelli G. (2016) *Activating the National Human Rights Commission to secure land and homes for Muhasar people*. Case study of the ILC Database of Good Practices. Rome: ILC

ILC is a global alliance of civil society and intergovernmental organisations working together to put people at the centre of land governance. The shared goal of ILC's 207 members is to realise land governance for and with people at country level, responding to the needs and protecting the rights of women, men and communities who live on and from the land.

Authors: Bhardwaj Shivani (Sathi All For Partnerships), Jan Cherlet (ILC Secretariat) and Giulia Baldinelli (ILC Secretariat).

Last updated: March 2015. Printed on recycled/FSC paper.

INTERNATIONAL LAND COALITION SECRETARIAT

c/o IFAD, Via Paolo di Dono 44, 00142 - Rome, Italy tel. +39 06 5459 2445 fax +39 06 5459 3445
info@landcoalition.org | www.landcoalition.org