

# Making the law count



**Environment justice stories on community  
paralegal work in India**

**Version 2**

## **About Centre for Policy Research (CPR)**

The Centre for Policy Research (CPR) has been one of India's leading public policy think tanks since 1973. The Centre is a nonprofit, independent institution dedicated to conducting research that contributes to a more robust public discourse about the structures and processes that shape life in India.

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## **About Namati**

In a world where billions live outside the protection of the law, Namati is dedicated to putting the law in people's hands. It is building a global movement of grassroots legal advocates who work with communities to advance justice. These advocates are fighting on the front lines to ensure that people can protect their land, access essential services, and take part in the decisions that govern their lives.

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# Abbreviations

BOD	Biological Oxygen Demand
CCI	Cabinet Committee on Investments
CETP	Common Effluent Treatment Plant
CFR	Community Forest Rights
CIL	Coal India Limited
COD	Chemical Oxygen Demand
CPR	Centre for Policy Research
CRZ	Coastal Regulation Zone
CTO	Consent to Operate
CWPRS	The Central Water and Power Research Station
CZMP	Coastal Zone Management Plan
DC	District Commissioner
DLCC	District Level Coastal Committee
DMO	District Municipal Officer
EAC	Expert Appraisal Committee
EC	Environment Clearance
EIA	the Environment Impact Assessment
EJ	Environmental Justice
EO	Executive Officer
FAC	Forest Advisory Committee
GCZMA	Gujarat Coastal Zone Management Authority
GIDC	Gujarat Industrial Development Corporation
GPCB	Gujarat Pollution Control Board
HPC	High Power Committee
HTL	High Tide Line
KCZMA	Karnataka Coastal Zone Management Authority
KIRTDI	Keonjhar Integrated Rural Development and Training Institute

KMFRA	Karnataka Marine Fishing (Regulation) Act
MCL	Mahanadi Coalfields Limited
MNP	Marine National Park
MoEFCC	Ministry of Environment, Forests and Climate Change
MPT	Mormugao Port Trust
MTPA	Million tonnes per annum
MSW	Municipal Solid Waste
NCL	Northern Coalfields Limited
NGT	National Green Tribunal
NH	Nayak Hospitalities
OCM	Open Cast Mines
PCB	Pollution Control Board
PDO	Panchayat Development Officers
PEKB	Parsa East and Kete Basen
PH	Public Hearing
POL	petroleum, oil, lubricants
RTI	Right to Information
SCZMA	State Coastal Zone Management Authority
SEAC	State Expert Appraisal Committee
SECL	South Eastern Coalfields Limited
SEIAA	State Environment Impact Assessment Authority
SMS	Smoke Management System
SPPL	Sarguja Power Private Limited
SSI	Small Scale Industries
ToR	Terms of Reference
TPP	thermal power plant
UMS	Ujjas Mahila Sanghathan


# Preface

Across the world, poor communities bear a disproportionate burden of the environmental cost of development. Harmful projects such as polluting industrial units, municipal disposal sites or mining projects are usually situated close to poor neighbourhoods. These communities grapple on a daily basis with environmental impacts which exposes them to toxic contamination, adversely affect their livelihoods and impose restrictions on their access to common resources and mobility. These problems severely affect their ability to live a life of dignity and safety. Communities usually strive to overturn these issues with whatever available resources and avenues they have but more than often not, they are overpowered by powerful.

Many of these projects are meant to be regulated by laws that are crafted far away from the affected people. Their stated purpose or extent of implementation is known only to policy makers, the projects and few experts. They remain in the books while harmful projects continue operations for years in gross violation or non-compliance of these laws. The lack of public knowledge of relevant legal and project information hinders the ability of affected communities to uphold their rights and attain meaningful remedies or relief from these adverse situations.

The CPR-Namati Environmental Justice Program has developed a strong network of grassroots legal advocates or paralegals across four states in India. These paralegals are equipped with knowledge of basic law, relevant regulatory institutions, administrative processes and skills such as mediation, training and community organization. They work directly with the affected communities to help them ***to know the law, use the law and shape the law.*** They assist communities to build evidence about the impacts, approach relevant institutions and seek practical remedies for their problems. In this process, communities are legally empowered





to lead the dialogue with the regulatory bodies to address these environmental challenges.

This publication is a compilation of articles written by CPR-Namati's paralegals along with other team members. These are a combination of case stories and opinion pieces on issues of industrial non-compliance that have adversely affected many local communities. Each article tries to highlight the gap between the law on paper and its implementation in reality, while putting forth the conviction that putting law in the hands of ordinary people can shift the balance of power in support of justice. These articles also illustrates the value of perseverance, focus and collective action to obtain justice.

## About the Authors



**Bharat Patel** is a senior activist who has been working for the protection of livelihood of local fisher-folk and the environment on Gujarat's coast for the last two decades. 'Bharat bhai' as he is fondly called, is known for his unflinching courage to take on the biggest violating corporations. He has been felicitated with numerous awards for his work

such as CNN-IBN Real Hero and Desai Samaj Sewa Puruskar and is a visiting faculty in some of the premier institutions of India including IIM, TISS and IRMA. A travelling enthusiast, he has travelled over 10 countries.



**Bipasha Paul** has been a part of the CPR-Namati Environmental Justice Program in Chhattisgarh for the last three years. Born in Dantewada district of Chhattisgarh and raised in a residential colony of a public sector enterprise which is the largest producer of iron ore, she always grappled with a thought on why the environmental

problems are the most neglected ones? She holds a master's degree in Environmental Science from Pt. Ravishankar Shukla University. She says, "I left doing research work realizing that no technological interventions can abate environmental issues and serve justice to the victims of the same until and unless people have easy access to all information and they are able to participate at all relevant levels." Bipasha enjoy playing sports such as badminton and table tennis and does gardening in her free time.



**Debayan Gupta** is a law graduate who has been working on issues of environmental justice with the CPR-Namati EJ Program since he graduated from National Law University Odisha in 2017. He likes to spend his time researching on laws and figuring out ways to make them simpler rather than complicate them further.

He feels, “law should not just be used by advocates in courts, but should be made accessible for all to understand and use.” When he is not working, Debayan can be found playing the bass guitar, watching movies or fast asleep!



**Harapriya Nayak** has been working as an environmental justice champion for over a year. Living in a heavily mined district, Harapriya was always curious about why tribal communities have to bear this burden while the companies continue to mine their resources and earn big bucks. This inquisitiveness landed her in this work and she

says “I was very afraid of the laws when I started this work, but now I’m so happy learning laws along with communities to reverse this injustice”. For her, providing information to the otherwise ignored and neglected tribal communities is the best aspect of the work. She enjoys walking in forests to learn traditional uses of plants and herbs from these communities.

**Hasmukh Dhumadiya** joined CPR-Namati Environmental Justice Program 2 years ago leaving his job in the maternal health sector. He explains “Over here, my work is not limited to spreading awareness on laws only. Rather I work with communities to find remedies for on-ground problems”. Fully convinced with this model work, he is currently pursuing his LLB. In his free time he loves to catch-up with his friends over a garama-garam cup of masala chai.



**Jayendrasinh Ker** joined CPR-Namati Environmental Justice Program 2 years ago leaving his marketing job with a fertiliser company. A post-graduate in rural studies, he loves working with the communities in his area. He says “the best part about my job is that we are constantly learning about new laws and regulations along with the communities. I feel good when I see communities asking the right questions to the authorities accountable to safeguard their rights. That is real democracy”. Inspired by the power of law when put in affected community’s hands, Jayendra is planning to pursue a law degree this year. He also plays Kho-kho at district level.



**Kanchi Kohli** is Senior Researcher at the Centre for Policy Research and is associated with the Namati Environment Justice Program as a legal advisor. Her research has focused on environment, forest and biodiversity governance in India. She has individually and in teams authored various publications, including the book Business Interests and the Environmental Crisis (SAGE-India). Her writings also include several research papers and popular

articles. Kanchi regularly teaches at universities and law schools in India on subjects related to biodiversity, environment and community development. For Kanchi, watching bollywood movies and indulging in good food are a perfect antidote to a long hard day at work.



**Krithika A Dinesh** is an environmental researcher, who joined the Centre for Policy Research-Namati Environmental Justice Program immediately after studying law. She went on to work four years on environmental compliance, legal empowerment and environmental policy across various states in India. She feels, “the written words of law are very far from the reality, and it is this gap that we must try and bridge.” Taking her passion in environmental governance issues forward, she is currently pursuing her Masters in Environment and International Development. In her free time, Krithika is fond of exploring new places, listening to music and watching movies.



**Sandeep Patel**, an IT graduate, he got his inclination towards Sustainable Development while he was doing a fellowship in Kutch to understand the challenges of fishermen to protect their traditional livelihood. Originally from Gujarat, he moved to Chhattisgarh and started working with Janabhivayakti on forest rights issues. As a program coordinator in the environment justice program. he says “I never imagine law could be this much easier for the community” This program has made laws accessible for all, and communities are using it to push for accountability at the level of local administration. Sandeep is a cricket buff who loves watching and playing the game. He also enjoys playing chess and swimming.



**Santosh Dora** joined CPR-Namati Environmental Justice Program 2 years ago. He has worked with tribal communities for their livelihood, land rights and wages for over two decades. He finds Environmental Justice work to be unique and says “I had never used laws so clearly with the communities to trigger structural and behavioral changes in environmental regulatory bodies. I love documenting this process of change through research and analysis of our field work”. A fan of tribal folk songs, he likes listening to them in his free time.



**Shvetangini Patel** is a social worker by education with experience in gender issues and womens’ mobilisation. She worked with a reputed womens’ organisation in coastal Gujarat in partnership with the CPR-Namati Program. A believer in creative training methods, she created interesting pictorial illustrations to train unlettered women on various environmental laws.



**Tania Devaiah** is a researcher, campaigner and activist with experience of working on issues ranging from anti human trafficking, citizens participation in democracy and campaigning models on rights based issues, for more than a decade. A TISS Mumbai graduate, she worked with CPR-Namati Environmental Justice program to

research the role of communities in environmental governance and compliance in 2018-19. She believes, “that learning to use laws is fundamental to us reclaiming our rights as citizens

and this would not only help us to protect our rights but our natural resources which are crucial for our survival.” A dotting dog mom, she loves spending time outdoors and contributes to animal welfare work in Goa.

**Mahabaleshwar Hegde** is a researcher working on coastal & environmental governance. He has worked with fishermen from Goa, Karnataka and Tamil Nadu on various issues such as Ballast Water Management, by catch reduction in trawl fisheries and understanding the marine fishing regulations in coastal states of India. He says, “I am a self-proclaimed Marine Ecologist, who just happens to have a doctorate degree in Marine Ecology to display.” He is currently working with the Centre for Policy Research (CPR)- Namati Environmental Justice Program, and is also involved with University of Winnipeg where he is studying the role and impact of litigation environmental disputes in India. In his free time, he likes to travel and spend time with family and friends.



**Manju Menon** got introduced to environment and social justice movements in India during her post-graduation at TISS, Mumbai. Since then, she has worked with communities affected by land acquisition, livelihood loss and environmental pollution. She says, “The CPR-Namati EJ program offered us a very good opportunity to work with affected communities and with local governments in a systematic manner to shape remedies”. In her view, the best part of the program is that it directs socio-legal research, adult learning and policy reforms in the service of communities who actually need them. Manju loves to watch cinema, take leisurely walks and get a close look at trees and birds along the way.



**Vijay Rathod** is a Social Worker by education and has been a champion of environmental justice for the last three years. He draws his motivation from this work that creates legally empowered communities who themselves fight for their socio-economic rights and protect the environment. He says, "In my area, we have many NGOs working on health, education and livelihood but none of them see protecting the environment as an interrelated objective of their work. That's why I feel our work is really important to bridge this gap". An ardent fan of Virat Kohli, Vijay loves to play cricket or watch cricket matches on the television during his free time.



**Vimal Kalavadiya** graduated from Gujarat Vidyapeeth and then obtained a Masters degree in social work. He worked as a community mobiliser for more than 5 years. He was with the CPR-Namati Environmental Justice Program for over 2 years during which he worked on various critical issues such as activation of local institutions, water pollution and community access to common resources. A music enthusiast with a great interest in political philosophy, he is currently a freelance translator.



**Vinod Patgar** is an avid traveller who enjoys meeting new people. He left his secure job as a teacher in a government school to become an enviro-legal coordinator with CPR-Namati Environment Justice Program. He says, "coming from a family of teachers, leaving the teaching job to become a paralegal was not really easy. I faced disapproval from



my family for the longest time. But when they saw how my work is helping vulnerable coastal communities to fight for their rights to secure housing, they started appreciating my work". He is a strong supporter of development but feels that community-driven development such as small scale, eco-tourism is a sustainable option for a naturally endowed place like Uttara Kannada.

# How we used the law to reclaim the inter-tidal area at Bavdi Bander

Written by: Vimal Kalavadiya, Dated: 22nd September 2015

The Kutch district in Gujarat, one of the largest in India, has a coastline of 405 kilometers and inter-tidal area of about 200 kilometers. For generations, communities in the district have engaged in agriculture, pottery, animal husbandry, weaving, fishing, and salt production. The last two occupations directly depend on the sea and the shoreline and have always co-existed in designated parts of the inter-tidal belt.

In recent years however, commercial expansion, especially of salt production, has contested for the space otherwise occupied by small and artisanal fisherfolk. The “bundling” and “drawl” of water for large saltpans has also had an impact on the livelihoods of fisherfolk who seasonally cultivate prawns.

## Conflict at the fishing harbour

One such instance came to light in the case of Bavdi *bander*, a fishing harbour in the Mundra block of the district. Neelkanth, a large salt production company, procured a lease for salt production on the *bander*. It then started to bund, by reclaiming the sea using stones and soil, more than one kilometer of the inter-tidal area to create saltpans to divert and collect seawater for the production of salt.

Exactly where Neelkanth had carried this out, a fishing community would spend 7 to 8 months every year, fishing with small boats or on foot (known as *pagadiya* fishing). They used the tidal area for parking their boats but once the bund was built, they had to keep their boats far in to the sea and further away from the coast line and so faced difficulties in the transfer of the fish catch from the boats on to the harbour where it would be sorted and dried before being sold. This was not all. The construction of the bunds also destroyed approximately 20 hectares of mangroves.

The biggest revelation of all unfortunately, came to light only after the impact of bunding had already played out. Neelkanth did not



*Fishing boats parked in the inter-tidal area at Bavdi Bander.  
Photograph courtesy Kanchi Kohli.*

have the clearance required under the *Coastal Regulation Zone (CRZ) Notification, 2011*.

It came to light by accident. On January 22, 2013, a committee constituted by the Ministry of Environment and Forest was visiting the area. Set up on September 14, 2012 to review the violations of the Adani Port and the Special Economic Zone located 45 kilometres away from the Bavdi *bander*, its members also decided to visit the *bander* to investigate claims about compensatory mangrove plantations in the area. Representatives of the Gujarat Coastal Zone Management Authority (GCZMA), local fish traders, and representatives of the *Machimar Adhikar Sangharsh Samiti* (a fishing union of the area) also accompanied the committee members.

They saw the large bunds that had been built into the sea. The people living at Bavdi *bander* complained that the bunding created obstacles to the natural flow of the sea water during periods of high and low tide. They also aired their difficulties related to the parking of their boats and how all this was severely affecting their livelihood. On the committee's recommendations, the Principal Secretary of the Department of Environment of Forests in the Government of Gujarat issued a show cause notice on February 27, 2013. But the action ended there and the bunding continued unabated.

## A different kind of salt satyagraha

In need of a remedy, some fisherfolk from the area approached the High Court of Gujarat. It took several hearings and over 18 months for a final judgment to emerge from the Court only on August 27, 2015. The District Collector had told the Court on April 10 that the lease for the salt pan had not been renewed. If any bunding activity did happen therefore, the District Collector could take action.



*On the left, a view of the bund built on the inter-tidal area. Photograph courtesy Kanchi Kohli. On the right, a view from the bund showing mangroves and the temporary settlements of fisherfolk. Photograph courtesy Bharat Patel.*

While the case was pending in court, there were some developments at the harbour and Neelkanth had continued its activities unabated. Some time in late 2014, the people of Bavdi, not clear about how the case would proceed, approached the Centre for Policy Research-Namati Environment Justice Program, which had been working in Kutch to understand the impact on livelihood caused by problems related to non-compliance with the law in coastal areas.

Bharat Patel and I work with the programme and we realised that the people of Bavdi knew that even though an illegality had occurred, which was affecting their livelihood, they had not received a remedy. While recording the nature of the problem, we also came to know that the owner of the Neelkanth salt company was trying to secure another permission on the same land, this time in the name of one of his relatives.

With some help from us, they came to know from the website of the Gujarat Coastal Zone Management Authority (“GCZMA”) that this was indeed the case. The minutes of a GCZMA meeting held on April 10 this year record that Neelkanth had applied for CRZ clearance in the name of Vasta Govind Chavda. This was for the same area where the bunding had been done, for which the show cause had been issued and a court case was pending.

From the minutes, the fisherfolk realised that the GCZMA had asked the proponents to submit a revised application so that their CRZ clearance can proceed. We saw this as an opportunity and decided to petition the GCZMA to not grant this approval because an illegality had already occurred and because the matter was pending before the Gujarat High Court.

Before they submitted the application to the authority, they discussed the importance of backing their claim with evidence. They had to prove that the place for which CRZ clearance was being sought already had an illegal salt pan and that the matter was sub *judice*. They relied on Google Maps to plot the area, backed it up with photographs, and also copies of notices that had already been issued to Neelkanth. Only when they had this in hand did the representatives of the affected community draft a letter to the GCZMA demanding that approval be denied. It also explained the relation between Neelkanth and Vatsa Govind. This letter was sent to the Chairman and members of the GCZMA on April 8.

At its very next meeting, on May 15, the GCZMA took a decision that favoured the fishing community. Vatsa Govind’s proposal was rejected because the area in question was rich in biodiversity with dense mangrove patches and sand dunes. The company therefore, had to submit a fresh application for a CRZ clearance for a different area.

Meanwhile, the sea has reclaimed the bund that was created illegally. With the saltpan lying vacant, the tidal water has gradually brought back the boats, the fish catch, and the spirit of the people.

*This article was first published on [myLaw](#), where students and professionals can self-learn legal research, legal writing, drafting, and human rights law.*

## CRZ: Why coastal communities are troubled by these three letters

*Written by: Vinod Patgar, Dated: 17th November 2015*

Lack of clarity over legal requirements, shoddy implementation and selective approvals have made it extremely difficult for poorer communities to build or maintain their houses in coastal zones. Vinod Patgar describes the situation based on his experience in Karnataka.

The coastline of Uttara Kannada district in Karnataka is poised at a critical juncture. Both the government and the private sector are looking out for opportunities and have begun setting up resorts, ports, and industries signalling “new” opportunities. In this context, sustaining common use areas like beaches and creeks and access to the shore for everyday occupations is slowly becoming a challenge for many coastal communities.

I often see community members complain about these recent developments and there are increasing disputes between fishermen and the new landowners of the coast. Very often these discussions



*The coast of Uttara Kannada district, Karnataka. Pic: Kanchi Kohli*

end up with the government being blamed for not having any regulation to control this. But deeper observation reveals that the problem is that our government declares new pieces of legislation every now and then without necessarily realising its full implementation and without providing the knowledge about this law to local people. The Coastal Regulation Zone (CRZ) notification seems to be one such law.

### **CRZ favouring big projects?**

The 'Coastal Regulation Zone Notification, 2011 (earlier 1991) has been issued by the central Ministry of Environment, Forests and Climate Change (MoEFCC). It lays out regulatory procedures for activities to be carried out in different parts of the coast. The main objective of the 2011 notification is to protect the livelihoods of traditional fisher folk communities, preserve coastal ecology and promote economic activity necessary for coastal regions.

It divides the coast into four zones and sets out procedures by which activities are entirely fully allowed, regulated or restricted. For those that can be conditionally approved, applications and proposals need to be approved by a State Coastal Zone Management Authority (SCZMA) and the MoEFCC. The implementation of the CRZ notification requires the preparation of a Coastal Zone Management Plan, showing a map of these zones. For more details on the zonation and process see Pocket Diary on Coastal Regulation Zone (CRZ) Notification.

Although the notification proclaims that its objective is to protect the livelihoods of traditional fisherfolk communities, it seems to be actually driving people away from the coast. Local people who might wish to construct or repair their small houses have to go through a very tedious process to get permissions. This involves getting paperwork cleared from a series of departments such as the Panchayat, a Treasurer in the Revenue department before seeking approval from the SCZMA.

Applicants have to travel long distances for basic information and lack of clarity on the documents required for processing applications make it a huge challenge. As a result, many locals have engaged in 'distress sale' to buyers at low rates.

Today, in the district, the tourism industry and government developmental projects occupy at least 18 percent of the coast that was once the home of traditional fisherfolk and coastal farmers. This has not only affected the poor families who have sold their lands at throwaway prices, but also large sections of the coastal communities who eventually lose access to the beachfront and the village commons.

Confusion over legal procedures and lack of awareness has worked in favour of the tourism and real estate sectors and denied the locals their right to stay here. Many who sold their land to these projects are now wondering how tourist resorts are able to build such huge structures while they had hardly been allowed to just repair their homes.

### **Fear of the law**

A farmer from Kagal, Kumta tells me “Please find some buyers for me, I have two acres of land near the beach. I hear that under the CRZ law, all our lands will be acquired and we will be homeless then. So I will sell my land now for a negotiable price.” I am intrigued, and ask why this sudden worry and alarm about CRZ.



*The coastal village of Kagal, Kumta, Uttara Kannada. Pic: Vinod Patgar*



Another person from Gokarna says, “I have constructed a house in my land located near the sea and I have spent all my savings and earnings on that. But now the *Panchayat* is refusing to assign a house number to my property. I am not getting an approval for electricity and water connection either. They say my land falls within the CRZ area, and so I have to take permission from the CRZ authority. I built the house on own my land, with my hard-earned money, and now this CRZ has arrived from nowhere, causing so much trouble!”

As I hear these people out, I am reminded of another such worrisome conversation that I had when I travelled to my friend’s village in Bhatkal. A farmer we met there told us that he had three acres of well irrigated land near the coast of Bhatkal. He now wanted to secure bank loans to finance his daughter’s marriage and son’s education.

However, the Karnataka Rural Development Bank, (which gives loans at lowest interest rates) refused to grant his loan saying that his land could not stand guarantee because it was in the CRZ area. The farmer was bewildered and detested the CRZ even without really knowing what it was all about.

## Understanding the real problems

If the main objective of the CRZ notification was to protect the livelihoods of traditional fisherfolk communities, why was it actually alienating so many of them? My colleague Mahabaleshwar Hegde and I, working at the CPR-Namati Environment Justice Program, tried to understand the spread and depth of the problem.

To start with, we realised that everyone has to go to Karwar to get the information regarding CRZ clearance. Even when one does end up in Karwar, the concerned officer may not be available. If you are fortunate enough to meet the official, your documents may not be sufficient. You will also have to fill a series of forms, which is not an easy thing for many of these coastal communities.

In the 11 *Panchayats* of Kagal, Baad, Holanagadde, Kalbhag, Devgiri, Divgi, Mirjan, Kodkani, Bargi, Gokarna and Alkod that we visited, it was revealed that more than 58 applications for housing



*The fisherfolk community in Kagal, Uttara Kannada. Pic: Vinod Patgar*

schemes had lapsed because the beneficiaries failed to provide “CRZ clearance”. When we spoke to the respective Panchayat Development Officers (PDO) regarding this, many of them told us that they have so much other work to do that they are unable to help each one of them to get CRZ clearance.

Only Mirjan and Kodkani panchayat officers were helping a few old women but again with limited success as there are no clear procedural guidelines from the CRZ office at Karwar (the district headquarters). The office also changes the format and list of required documents frequently as a result of which the applicants are constantly scrambling to catch up with the new methods without achieving the desired results. There are different formats for new constructions, reconstruction and repairs, and regularisation of constructions done prior to 1991.

The problem became more evident once we began calculating the time taken to get a housing approval in the CRZ area. Most people who try to get a CRZ approval themselves take about two months only to prepare all required documents in the requisite format. Often by this time the baseline format itself changes, and the process has to be restarted in line with the new procedure.

Even after the person does manage to submit the documents, there is often no response for 3-4 months. Some have waited for over a year to get a reply. Undoubtedly, this has tested the patience of people living on the coast to such an extent that CRZ itself has now become a bad word!

Government schemes such as Indira Awas Yojana, Basava Housing Scheme, Ambedkar Housing Scheme and Fishermen Housing Schemes, which provide financial aid to the poor to help them secure a roof above their head, stipulate a time frame within which construction must start. However, this limited time period is not enough to get CRZ clearances with the result that most of the poor beneficiaries are unable to start construction before the scheme lapses.

This has led to a situation where the Government is now refusing to grant any housing schemes to eligible beneficiaries living in CRZ areas. Further, in an official circular released on 11 July 2011, the Karnataka State Co-operative Agriculture and Rural Development Bank announced that it would not grant loans to locals who use their properties within CRZ as guarantee.

## **Clearing the air on CRZ**

The enviro-legal coordinators of the CPR-Namati Environmental Justice Program in Uttara Kannada began working with local communities in 45 coastal villages and the District Level Coastal Committee (DLCC) to understand the CRZ in Uttar Kannada and help communities apply for CRZ clearance for their houses. Through this programme we have conducted street plays to create awareness on the CRZ 2011 notification and the importance of community participation in CZMP preparation at more than 40 locations.

Our team helped about 25 families to obtain CRZ clearance for house construction and guided more than 40 community members to apply for CRZ permission in the last one year. We feel particularly hopeful about our work that has helped the islanders of Aigalkoorve near Kumta. This CRZ zone which had not received approval for a single housing scheme for BPL beneficiaries since 2011 is now being granted shelters.

But to solve the problem of procedural delays and confusion, the relevant authorities would need to take proactive steps to eliminate the misconception regarding CRZ by conducting village meetings, group discussions and awareness programs for communities and implementing agencies.

In fact in village meetings, coastal communities have suggested that CRZ clearances for local housing should be brought under the Sakala Act, 2011. This Act also known as the Karnataka Guarantee of Services to Citizen Act, 2011 ensures a citizen the right to obtain documents within a certain time prescribed in the Act and the government department should provide documents within this assigned time.

While the CRZ notification is indeed needed to regulate coastal activities, its implementation so far seems to be heavily inclined to favour the larger projects and industries, who can navigate government routes effectively to wrest the necessary permissions. In the days to come, we hope to bring the CRZ implementing agencies and local communities together to design creative solutions to amend this unfortunate situation.

*This article was first published in [indiatogether.org](http://indiatogether.org), with the support of Oorvani Foundation - community-funded media for the new India.*

# How a CRZ violation is leading to a small revolution in Karnataka

Written by: Vinod Patgar, Dated: 8th March 2017

Baad, a village near my village of Kagal in coastal Karnataka, hosts a fair every year at the Shri Kanchika Parameshwari temple. As children, the joy of going to this fair was unparalleled. During the fair, the *yakshagana*, a folk dance, used to take place in a big field near the temple. Instead of paying to watch this dance, my friends and I used to play a game of *dappanduppi* with mud stones. These memories remain as fond connections to our childhood.

In 2008, while I was completing the final year of my BA studies, I came to hear that this field had been sold and that a big resort would come up there. Many questions about why the owners would want to sell such a prosperous field, where farmers would grow rice and peanuts during the monsoons and vegetables during the summer months, plagued me.



Satellite image of the Nayak Hospitalities compound

Nayak Hospitalities (“NH”) was the buyer and as a result of the purchase, farmers’ fields, some public wells, and even a cremation yard, was acquired. Public access to a beach was also blocked. The loss of the wells affected the supply of drinking water to three villages – Baad, Jeshtapura, and Gudeangadi. After NH built a wall of about 15 to 20 metres height around the occupied land, fresh

breeze from sea stopped blowing into the village. The villagers, who were also worried about the dangers posed by the crumbling of the wall during the rainy season, complained to the panchayat on two occasions and asked for the height of the compound wall to be reduced, but the panchayat did not take any action.

As an Enviro-Legal Coordinator with the Centre for Policy Research (CPR)-Namati Environmental Justice Program, my job is to inform people about the law, and work with them to solve the various environment-related problems they face. I had helped conduct training programmes on awareness of the *Coastal Regulation Zone Notification, 2011* ("**CRZ Notification**") in Baad and surrounding areas. This led to discussions about the violations caused by NH and a decision to work together in collecting information, evidence, and pursuing remedies with the local authorities. Collection of information is central to the way we try to resolve problems. That way, if a similar problem arose in the district, a solution based on this case could be used.

### Collection of information

The project had obtained clearance from the Ministry of Environment, Forests and Climate Change in December, 2010. Under this letter, permission had been granted to construct the resort on survey numbers 4 to 9, 11 to 13, 17, 19 to 21, 23, and 26 of Baad and survey numbers 14, 16, 18, and 19 of Gudeangadi. It also contained



*Nayak Hospitalities compound area*

12 specific conditions and 14 general ones but we observed that many of them had not been complied with.

1. *Construction on land in excess of permission given:* The project had permission to construct on 5.26 ha, but ended up constructing on 9.67 ha. The land includes public property such as government wells, a cremation yard, a temple's field, and also access to the beach.
2. *Construction in No Development Zone:* Under the CRZ Notification, no new construction is allowed in the zone known as CRZ-III. However, the compound wall has been constructed in the 0-200m No Development Zone of CRZ-III.
3. *Access restricted:* The lack of access to the three government wells located on NH's property is leading to shortage of drinking water for the villagers living in the area.
4. *Non-permissible installation:* The installation of a pumpset in the NDZ of CRZ-III is not a permissible activity. However, pumpsets have been installed on the NH site. This has reduced ground water in the region.

## Advocating with authorities

I discussed strategy with the villagers and identified the relevant authorities. A letter was sent to the Regional Director (**"RD"**) of the Karnataka Coastal Zone Management Authority (KCZMA) office at Karwar. After a site inspection, the RD noted some violations and sent a report to the KCZMA and a notice to the proprietors of NH.



*Site Inspection  
by Regional  
Director*

Since no relief followed, the villagers and I decided to send letters to all relevant authorities including the District Commissioner (“DC”), Executive Officer (“EO”), and the Panchayat Development Officer (“PDO”). Site inspections were carried out and once again, notices were issued against NH. Upon request by the villagers, the panchayat on five separate occasions, gave notice to NH to reduce the height of the compound wall. This too had no effect. Finally, an order by the DC led to a reduction of the height of the wall from 15-20 meters to 6 feet. This was a small victory after two years of hard work.

## Not a small victory

The victory was not absolute since the villagers still did not have access to the common land and the government wells. We used provisions in the *Karnataka Land Reform Act, 1961*, *Panchayati Raj Act, 1993*, and the *Environmental Protection Act, 1986* and wrote letters to the DC, the EO, and the PDO. If any action had been taken pursuant to these letters perhaps a solution might have had been possible. The letters get transferred from one government department to another and my job then becomes to trace the status of the compliant. This is a waste of time, money, and energy.

The NH project is still inconvenient for the villagers in Baad and Gudeangadi and though their problems are not yet fully resolved, there is still hope. Through these two years, there has been immense support from the villagers of Baad and Gudeangad in working together to resolve the problems that they face. They now also have a pretty good understanding of the law and are in a position to seek remedies to their problems in the legal system. By working to get justice in this case, the villagers have also become more aware about the importance of the environment and common resources. This manner of legal empowerment has also helped them solve other small CRZ violations.

*This article was first published on [myLaw](#), where students and professionals can self-learn legal research, legal writing, drafting, and human rights law.*



## Saving sangam from mining

*Written by: Vijay Rathod, Dated: 19th June 2017*

*With enough legal evidence of the violation in hand and clearly articulated demands supported by law, a group of people saves the Triveni Sangam from sand mining.*



*The path built for illegal sand mining at the Triveni Sangam.*

There was illegal mining in the Triveni Sangam and I could not believe my eyes. Who could do something like this? The sangam or confluence has a special place in my mind as I had grown up visiting this place regularly since childhood. Many families like mine have spent long hours in the area during festivals and recreational trips. But the sangam is not just a tourist or cultural attraction. It is a unique hydrological occurrence where three rivers--the Hiren, the Kapil and the Saraswati--are known to meet before they flow into the Arabian Sea.

Till about 10 years ago, this confluence was rich in biodiversity. A wide array of birds including flamingos perched on undulating

sandbars in this coastal riverbed. It was a visual treat and a way of life for several of us growing up in rural areas of Gir Somnath district of Gujarat.



*The River bed now*

But a year and a half ago, when I visited the place, it seemed unrecognisable. The place had changed and several locally powerful people were responsible for it. I was told that the local mafia was soaking up all the sand and destroying the diversity of the Triveni Sangam. The same place, which gave me utmost joy, was a reason for sadness. But I was not clear on how and when this had begun and what can be done about it.

An equally bigger question for me was whether this was just my nostalgia or was this extraction of sand creating problems for people living nearby?

## **Understanding the problem**

It was in 2015 that I had begun working with the Centre for Policy Research (CPR) and Namati on their collaborative work to achieve environmental justice (EJ). Triveni Sangam was destined to be one of my first cases as part of this work. We were looking for impacts that people of the area were facing and understand if there was a

violation of law involved. Further, if this violation were addressed, would the issue be solved?

As I began enquiring, it came to light that approximately 200 people, especially from the fishing community, were being directly impacted by this activity. Since large rocks and sand were being removed, it was causing sea erosion resulting in less space for fishing shelters.

Even before I could start working, one of the local residents called me to complain about the “sand mining issue”. This was only the beginning of the long story that followed. Ironically after enthusiastically showing me around once and promising to work together, he did not show up again. That pushed me to connect with the fishing village along the banks.

### **Was it legal?**

I only knew a few laws around sand mining and one of them was the Coastal Regulation Zone (CRZ) notification, 2011. Prohibited activities within the CRZ, i.e. 500 meters from the High Tide Line (HTL), include mining of sand and rocks (except those rare minerals not found outside this regulated zone) as well as the exploration of oil and natural gas. As per this law, extraction happening at the river bed at the Triveni Sangam was illegal.

Once I collected some evidence, especially the visual images of the damage to the riverbed, I reached out to the District Level Coastal Committee (DLCC) mandatory under the CRZ, 2011. Following efforts of some of my colleagues in the EJ program and the initiative of the Coastal Zone Management Authority (CZMA), I realised the DLCCs in Gujarat have several powers including monitoring violations of the CRZ law and bringing it to the attention of the CZMA. This has been clarified in the Gujarat CZMA circular no. ENV-10-2011-800-E dated October 14, 2013.

It was in the course of this work that I also realised that the introduction of the DLCC clause into the law was one of the most significant changes to the coastal regulation back in 2011. It was a result of several fishing communities and their unions pushing for decentralised decision-making on the coasts. But a mere mention in the law was not enough and the committees had a long way to

go in being effective. But it certainly seemed like a tool the affected people could use to both activate the DLCC for action.

What did we do?

Together with the villagers of the Khorava village adjoining the Sangam, we wrote to the district collector who was also the chairman of DLCC on July 3, 2015. But no action was taken. Perhaps, the collector didn't do any work for the local people because he didn't want to stay in the local area, we thought.

Saving the Triveni Sangam was important to all of us involved. So we had to follow up regularly. I contacted other local people again on March 14, 2016, when the issue persisted. We once again approached the collector. In their letter, the small fishermen living near the area urged him to "stop the mining of the Triveni Sangam to keep the community alive".

This time around there was action and we had collectively pushed him to end illegal sand extraction from the riverbed. Within 10 days, on March 25, he personally visited the area and removed the access road, which was being used to extract material from the river bed.

A systematic method, which included evidence, persistent follow up, use of law and a clearly articulated demand seemed to have worked. Today, sand mining has stopped and we are slowly seeing the Triveni Sangam coming back to life. While some of us have found our memories again, others have gained faith in working together to find solutions.

*This article was first published on [India Water Portal](#).*

# Bull trawling conflicts in the Uttara Kannada coast: an opportunity for a bottom-up review of the Karnataka marine fisheries law

*Written by: Mahabaleshwar Hegde and Manju Menon*

*Dated: 20th October 2017*

Fishing is one of the oldest livelihoods in coastal areas. Marine fisheries have provided food, nutrition and livelihood security to coastal communities for centuries. Karnataka, a state along the south-west of India is one of the major marine fishing areas of India. Historically known as the “mackerel coast” it has a coastline of 300 km and a shelf of about 25,000 km<sup>2</sup>.

The state’s contribution to marine fish landing varies from 6% to 14% annually.

Karnataka has three maritime districts namely Uttara Kannada, Udupi and Dakshina Kannada with an estimated 298 fishing villages. Fisheries of the Karnataka coast supports the livelihood of more than 10 lakh people of which more the 3.5 lakh people are directly dependent. Today, fishing livelihoods are not limited to a particular community or caste group as it has grown as an industry sector and contributes 1.1% total GDP and 5.15% to agriculture GDP.

Prior to the 1950s, fishing was carried out by traditional practices using cast net, rampan net without the use of motor boats or



Illustrations Credit: Aditya Bharadwaj

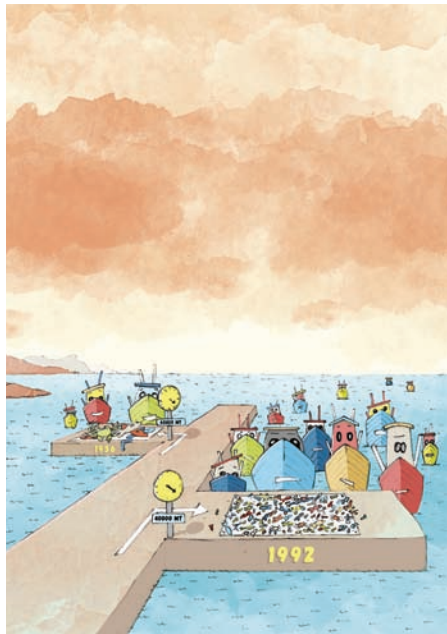
mechanized gear. The introduction of an Indo-Norwegian Project in the 1950's is held as the beginning of the modernization of Indian fisheries. Trawlers were introduced in 1962 with specially designed nets. The introduction of more intensive fishing gear and the rising popularity of trawlers on the Indian coast resulted in a steep increase in marine catches in the 1970s and 80s. However, catch rates either stabilized or decreased by mid 1990s proving the condition of overfishing of marine resources. Studies indicated that except for a few species, the recovery is very little after the collapse and that about 69% of species need conservation and management. Fisheries scientists suggested that over-exploitation of fish resources alters stock size and affects ecosystem functioning through successive removal of top predators and large fishes.

This article outlines the scale and impacts of illegal fishing practices along the Karnataka coast and specifically in Uttar Kannada district. This is a direct result of scarcity caused by trawler-led overfishing and compounded by the non-compliance of fishing regulations introduced to regulate the sector. It also focuses on the start of efforts by artisanal fishing unions to manage the conflicts caused by illegal practices and make regulation effective for the prevention of these conflicts. Their efforts are an initial step towards socializing the regulatory framework for fisheries, so that these regulations produce the intended public benefits. Such a bottom-up review of regulation is needed to manage a resource that is vulnerable to the known and lesser known risks of climate change, global economic demands and regulatory capture.

## **Expansion of mechanized fishery and the failure of regulation**

There has been gradual increase in the number of mechanized boats that operate along the Uttar Kannada coast from 1957 – 1993. Before 1960's the entire fishing was by traditional methods. Mechanized crafts were introduced in an unregulated manner from the 1960s. The total number mechanized crafts (purse-seines, trawlers and gill-netters) in 1975-76 were 371; it shot- up to 1333 in 1985-86, 1592 in 1995-96 and 2300 in 1999-2000. In the last two decades, there has been a threefold increase in mechanized boats in

Uttar Kannada. It is interesting to see that the significant increase in the number of boats in Uttar Kannada did not show the increase in the fish landing. Fish landing has remained the same even though there is an increase in the fishermen population, number of vessels and effort. With the increased entry of mechanized crafts today, about 85% of the catch is captured by the mechanized sector, thereby depriving the traditional fishermen of their source of sustenance. Mechanization of the fisheries sector has not only pushed the sector to its ecological limits but has also caused immense distributive injustice.



*Figure 1: Graph showing the comparison between the fish landing and number of fishing vessel over the years Uttara Kannada coast. Illustrations Credit: Aditya Bharadwaj*

To control this increased fishing effort, management tools such as Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Act 1981, the Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Rules 1982, and the State Marine Fisheries Regulation Acts and the Code of Conduct for Responsible Fisheries at the global level etc, were implemented throughout the coastal areas at different points of time. The Karnataka Marine Fishing (Regulation) Act (KMFRA) of 1986 is one of the legislations implemented in Karnataka aimed at controlling the impact of fishing on the marine resources and also to manage the conflicts between traditional and mechanized fishermen.

The KMFRA, states that the government may regulate, restrict or prohibit the fishing in certain areas by particular kind of fishing vessels by notification. It also states that, the government

can regulate by way of a notification the number of fishing vessels or specific species fishing in any specified area or a particular season. The act also says that the use of some fishing gear in any specified area as may be prohibited, regulated or prescribed. In making an order under this act the authority should protect the interests of different sections of persons engaged in fishing. This is particularly for those engaged in fishing using traditional fishing craft such as country craft or canoe and the need to maintain law and order in the sea. However, these regulations have not been implemented and the number of mechanized boats have continued to increase. Under KMFRA 1986, an order was passed in 1994, which states that 10 km from the shore in the west coast and 7 km in the east coast is reserved for traditional fishermen. This too has remained unenforced leading to direct conflicts between trawler and artisanal fishermen seeking to live off a dwindling resource.

### **Bull trawling in 10 km coastal area and resource conflicts**

Reduced fish catch due to technology driven overfishing practices and the failure of implementation of marine fisheries regulation has led to conflicts. Destructive fishing practices such as bull trawling and halogen light fishing are prevalent now. Increased availability of mechanized vessels have made more of these being used for bull trawling. Bull trawling is done with two trawl boats with engines of more than 300 hp, even though this is not permitted by the Department of Fisheries. One end of the tow rope is tied to one boat and the other end to the second so that it adds to the speed of the trawl operation.

This practice destroys the seabed because of its high speed and heavy otter boards which are tied at the end of the fishing net to make the net submerge in the water. This method of fishing is hazardous to bottom living fishes and other organisms. It damages fish eggs and juvenile fishes as well as the food of the fishes. Bull trawling has impacted benthic fishes, dolphins, turtles, sharks and skates and therefore the ecosystem.



It gets even worse when these bull trawls are operated near the coast (i.e. within 10 km limit). This destroys the livelihood share of poor traditional fisherman. In recent years the disputes between the traditional fishermen and mechanized fishermen have increased along the Karnataka coast and there have been several incidents where traditional fisher folks have filed complaints to authorities.

In order to study the nature of the conflict, focus group meetings with fishermen were conducted in 20 villages by the Uttara Kannada based team of the Centre for Policy Research (CPR)-Namati Environment Justice program. We spoke to 65 fishermen and visited 7 traditional fishing unions in the district. We asked them questions regarding recent fish landing trends, reason for variation, impacts of illegal fishing practices (bull trawling, night fishing, light fishing). We also asked questions to gauge their knowledge of the law to regulate fisheries, their earlier efforts to resolve the issues they face, complaints filed and response received.

During this research carried out between January 2014 to June 2014 and meetings carried out from June 2016 to January 2017 on the Uttara Kannada coast we found that bull trawling is the most destructive fishing practice affecting the livelihood of traditional fishermen. Most of the boats come from Mangalore, further south on the west coast, and engage in bull trawling in the Uttara Kannada. When bull-trawling operations are carried out near the coast, (within 10 km limit) the traditional fishermen return empty-handed. The high speed trawl boats disturb the shallow coastal water making it more turbid, so fishes and prawns migrate to other regions. Venkatesh Moger president of the Traditional fishing union from Bhatkal, says that because of the bull trawling the traditional boats do not get enough fish catch during the season

Out of the 65 people we spoke to 37 people directly attributed this practice to the decline in fish catch. Among the remaining 28 people few people partially attributed bull trawling and also mentioned the added effects of night fishing and smaller mesh

size. A few among them said that bull trawling may not be the reason for overall decline in the fish catch since it is carried out only for three months when the prawns are abundant (September to November). The remaining 12 people reported that fish catch is generally decreasing because of more boats and overfishing. Out of the seven unions we visited six union members held that bull trawling is the major threat and that it takes away the fish catch share of traditional fishermen. Only one union from Manki village was not sure about the role of bull trawling in the decline in the fish catch and said that it could be due to the increase in the number of fishing vessels.

As per the data collected from the interviews, group discussions and newspaper reports, there have been more than 34 instances of conflicts between traditional fishermen and mechanized fishermen because of bull trawling during the season of 2014-2015. Traditional fishermen from Bhatkal had filed five complaints to the Department of Fisheries and two complaints to the trawl boat union in Mangalore, but no action was taken.

Unlike all the fishermen interviewed who discussed the issue of bull trawling as a matter that requires attention, the fisheries department was indifferent to questions posed to them about this practice. When we visited the Fisheries Department they said that there is no fishing practice such as bull trawling and they had not given permission for it.

In practice, once the prawn season is over by November, bull trawling also stops and the same boats are then used for normal trawling. The seasonal nature of these practices makes timely monitoring very crucial but the fisheries department does not have enough staff to monitor these practices.

Visits and discussions with the Fisheries Department offices in district revealed that there is no monitoring authority to oversee illegal fishing activities in Karnataka. They said that they could only pass an order or cancel licenses if they come to know of violations/illegalities. But, they do not have manpower to investigate these issues on their own, and it is not their duty to monitor illegal activities along the coast.

## Bottom-up efforts to review fisheries regulation

The study clearly revealed that bull trawling is a threat for traditional fishermen and people have approached authorities for solutions. However, even though the activity could be prohibited exercising clause 'a' and 'd' of Subsection 1 under section C, of KMFRA, there is no order issued specifically mentioning on bull trawling. Therefore we worked with the fisher communities to see if the law can be reviewed. A carefully drafted demand letter was sent by the Bhatkal Traditional Fishermen Union (Bhatkal



Illustrations Credit: Aditya Bharadwaj

is an important fishing centre) to the Fisheries department to reiterate the need for a ban on bull trawling along the coast of Uttara Kannada.

In November 2016, the Directorate of Fisheries of the Karnataka State Government issued an order saying bull trawling is a violation of KMFRA and action shall be taken as per the provisions of the Act. This time the artisanal fisheries unions were aware of the legal framework since they had learnt the KMFRA, 1986 through the trainings conducted by CPR-Namati Environmental Justice Program. They also developed a format to file complaints on fisheries law violations using the provisions given in the KMFRA, 1986. As part of their efforts to bring the legal prohibition of bull trawling to life, the unions are engaged in continuous monitoring of fisheries violations, collection of evidence and filing complaints to bring the issue to the notice of authorities and seek specific remedies.

Following the trainings, recommendations for changes to the law and implementation mechanisms were drafted along with fisher communities. The main ones were the following:

- The Fisheries Department should issue an order under KMFRA to regulate the number of mechanized crafts that can be operated in a specific area.
- The KMFRA should also include conservation clauses for better management of fisheries. Currently, the law only mentions licensing of fishing vessels and a few restrictions according to season and gear type. Moreover, the department of fisheries aims to increase fish landing rather than conservation and management.
- For the effective implementation of these management measures, there is a need to understand the fishers' perception by authorities and policy makers on the issues related to management of resources and involve them in monitoring, as they are the primary users of the resources. The Department of Fisheries had failed to implement the existing regulation because of insufficient manpower and absence of data on compliance and monitoring. This is despite submissions of complaints and evidence.

### **An opportunity to secure environment justice using marine regulations**

The active involvement of fishing unions and artisanal fishers of Uttara Kannada in the legal training programs is the basis of their legal empowerment. An informed participation of the community and especially the unions can lead to their active role in the implementation of marine regulations and engagement with the fisheries department on the issue of bull trawling conflicts. Their interest in deliberating the clauses of the KMFRA offers a new opportunity for the review of marine regulations in the state. Such a review if done with collaboration of fisher unions will result in framing better and more evidence-based regulations that respond to the issues of production and fair distribution of fishery resources. These two aspects are the essential ingredients of environment justice.

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## Has the pipe only become longer- a legal compliance conundrum

Written by: Krithika Dinesh, Hasmukh Dhumadiya and Bharat Patel

Dated: 1st October 2018

*Mithapur is a coastal town situated in Gujarat, known for the salt plant in its town more than its beaches. In fact, the place derives its name from 'mitha', the Gujarati word for salt. Mithapur is also referred to as the birthplace of Tata Chemicals, which took over Okha Salt works in 1939 and is today the second largest soda ash producing company in the country.*

If you happen to walk around the Mithapur and Padli villages, you cannot miss this massive

factory. You will also see an open channel arising from the factory, going to the Gulf of Kutch. The channel carries industrial waste water, including chemicals like sulphur, chlorine and ammonium nitride. Over the years, people say that water from this channel has seeped into the ground and affected groundwater, nearby agricultural fields and grazing lands. They also say that due to the contamination of ground water, there are no sources of water left for them and their cattle.

Back in December 2016, when people learnt that some of these impacts could be mitigated, they filed complaints before the Gujarat Pollution Control Board (GPCB). The GPCB took a note of this and issued a show cause notice to the company after 4 months. The GPCB also directed the company to concrete over the channel along with several other directions to ensure no



Illustrations Credit: Kabini Amin

further seepage of waste water into the ground. But there was no visible change in Mithapur. The people complained again to the GPCB, following which a site visit was conducted by the GPCB. Similar were given again to the company by the GPCB. There is however still no compliance, and the effluents flow through the open channel as usual.

## **Transferring pollution from land to sea**

The people of Mithapur are now facing a dilemma. While the compliance to the directions given by GPCB is being awaited, an announcement was made by the GPCB about a proposal to build a deep-sea pipeline for Tata Chemicals. An underground pipeline of 2.5 kilometres long and 45 metres wide, is proposed to be laid down, to take all the waste water from Tata Chemicals directly into the Gulf of Kutch. The standards required for discharge onto the sea are also said to be lower as compared to inland water.

Now here is the problem. This pipeline will pass through mangroves, the Marine National Park (MNP) and will end a few meters beyond the Ecologically Sensitive Zone in the area. Established in 1982, the Gulf of Kutch MNP was the first of the 13 MNPs in India. It is home to various species of fish, corals, mangroves, octopuses and supports several marine mammals like dugongs, dolphins and porpoises. At the same time, the Gulf of Kutch is also a source of livelihood for the fisherfolk in the area. The fishers feel that the the pipeline will pose a threat to their movement since navigating in those areas will be restricted. The Environment Impact Assessment study conducted for laying the pipeline in Mithapur did not even mention the issue of access of the fisherfolk to these areas. The proposal is currently being examined by the Expert Appraisal Committee of the Environment Ministry.

Harishbhai, who is one of the complainants affected by the open channel says, "The pipeline will be a short term solution which will solve the problem of land getting polluted, which has been happening for around 40 years now. For the longer run, it will be better to concrete the channel. The company will

probably not agree to it, as they will have to stop operations for a few months. Only then can the discharge be stopped and concreting can happen.”

This story shows how governments allow for impacts to be displaced from one place to another without addressing the reasons the problem occurred in the first place. The solution of a deep-sea pipeline merely shifts the point of discharge; it does not in any way ensure better compliance by the companies or monitoring by the concerned authorities. Tata Chemicals is just one among many companies that have proposed to or laid down a deep sea pipeline along the coastline of Gujarat. There is no publicly available information on the how many such pipelines are in the pipeline in India.

## **A problem across the Gujarat coast**

The western Indian state of Gujarat has the largest coastline in India of around 1600 km and a diverse marine ecology. It has the first marine national park and sanctuary in the country that extends from the Kutch district to the Devbhumi district. This is known for the rich mangrove forests, coral reefs and is a hub for near threatened species of birds. Gujarat also contributes to 20 percent of the nation’s fisheries production and has more than a thousand fishing villages.

The large coastline has also resulted in an influx of activities around these coastlines, making it a hub for import and export and large scale processing units. The 1960s saw a large number of industries being set up under the Gujarat Industrial Development Act, 1962. While the Gujarat economic model has been discussed by various actors – politicians, academicians, media and the public – the pollution crisis that Gujarat has been facing has not featured in these debates.

The pollution crisis has been acknowledged over the years through various orders from the judiciary as well as academic and newspaper reports. In 2009, the Central Pollution Control Board studied the pollution levels in 88 identified industrial clusters in the country. Based on the pollution levels, 43 such clusters were



identified as critically polluted areas. Six of these 43 clusters are located in Gujarat, with Vapi and Ankleshwar topping the overall list. Rivers like Amalkhadi in Ankleshwar and Khari and Sabarmati in Ahmedabad were declared unfit for domestic uses in 2012. In 2018, the MoEF&CC recognized 20 rivers in Gujarat as polluted.

## **History of deep-sea pipelines as a solution**

We have observed that this is not the first time deep-sea pipelines were proposed to tackle land-based pollution. For example, in 2009, when Vapi was recognized as one of the most critically polluted industrial clusters in the country, an action plan was made to reduce pollution. One of the points of action was the laying of a deep-sea pipeline. Currently, treated effluents from Gujarat Industries Development Corporation(GIDC) are disposed off into the Damanganga river, impacting the livelihoods of fisherfolk.

Another instance is when in 1999, following a Gujarat high court order that disallowed releasing untreated industrial effluents into Amalkhadi river, a proposal was made to lay a deep sea pipeline in Sarigam. The deep-sea pipeline in Sarigam however has not resulted in resolving the problem. There have been several news reports of fish mortality in these areas due to untreated effluents released into the seas. Residents have also complained that it has resulted in their health being affected. A detailed investigation of the impacts of already existing deep-sea pipelines need to be assessed. There has also been instances of leakage in pipelines in some areas where such pipelines have been installed.

## **An Environmental Justice Issue: Displacing the impact**

Environmental pollution problems often result in solutions where the burden is merely shifted whilst the pollution remains the same. Laying deep-sea pipelines as a response to complaints against rising pollution raises more questions than answers. What are the impacts that arise out of laying and maintaining

a deep-sea pipeline? Is the pollution load being reduced or the burden being shifted?

Without having robust measures in place to ensure compliance, measures such as deep-sea pipelines will only result in displacing the pollution and shifting the impact. The shift needs to be accompanied by a structural change in how the problem of discharging untreated effluents is addressed in the first place. There needs to be more robust monitoring mechanisms and punitive measures. The basic issue of non-compliance and the impacts that arise are not dealt with. When the industries as well as the authorities have failed to demonstrate compliance to existing protocols, the question remains as to why there has been a shift in the dumping ground. The pipes will just become longer, but has anything else changed?

*This article was first published in the [Current Conservation](#) magazine.*

# Modernising mormugao port may not be the ultimate answer to Goa's problems

*Written by: Tania Devaiah, Dated: 13th October 2018*

Without a comprehensive environmental impact assessment report which considers the cumulative impact of these projects, all of which are in the same location and have identical impact radiuses, the public has no way of knowing the full scale of possible impacts they will have to live with in the long run.



One of India's oldest and largest ports, Mormugao Port is about to see some major changes if things go according to plan for the Mormugao Port Trust (MPT). The latest proposal for modernisation and expansion of this port – an integral part of the SagarMala behemoth – is being hailed by the port authorities as the ultimate answer to the problems of the state.

But curiously, bundled along with the proposal to build a brand new fishing harbour are five other proposals – to build a liquid cargo berth which will handle petroleum, oil, lubricants (POL), LPG etc. This bouquet of projects was set to be scrutinised by the citizens living in a ten-km impact radius at a public hearing on October 5. At the

public hearing, as mandated by the Environment Impact Assessment (EIA) notification of 2006, the main point of discussion would be the draft EIA report submitted by the project proponent. This is an important process that allows citizens to weigh in on such projects.

It was clear that the district administration wanted to finish the proceedings in one day and not allow a repeat of last year's marathon seven-day public hearing. Of 44 registered speakers on Day 1, 19 presented detailed objections quoting problematic and confusing sections of the EIA. They demanded clarifications from the consultant and project proponent who in most cases said, "We will get back to you with this information." These answers will likely be included in the final EIA but how many citizens will have access to it and whether they can give feedback is an important question that needs attention.

## A trojan horse

The total cost for the current proposal as per the EIA is Rs 679.62 crore of which Rs 534.62 crore is allocated for the POL and other cargo berths and dredging. The fishing jetty accounts for just 18.25% of total project cost.

The rationale given to justify a new POL berth is that the current POL berth cannot handle the expected growth in liquid cargo in the future. But from the EIA it becomes evident that the forecasted increase POL handling from 2018 to 2030 is merely an increase of 0.58 MTPA. On the other hand, the handling of thermal coal forecasted from 2018 to 2030, an increase of 7.13 MTPA, double of 2018. Furthermore, coking coal quantities are set to increase by 23.5 MTPA by 2030, almost 3.5 times more than quantities to be handled in 2018! One could infer from this that the major growth in cargo handling at MPT till 2030 is going to be coal-related and not liquid cargo.

This becomes important as the EIA also notes that POL activities need to be shifted to this new berth as MPT has already signed a PPP agreement (with Vedanta) for the redevelopment of berths 8 and 9 respectively. This specific proposal was vociferously rejected by Goans at its public hearing in 2017 and MPT has not received

any Environment Clearance (EC) for the same. But the EIA seems to assume that this is a mere formality.

## **Lack of comprehensive impact assessment**

This EIA report introduces the project by stating in no uncertain terms that it is an integral part of the prime minister's flagship SagarMala Project of the government of India which aims to strengthen "port-led development". It specifies that other aspects of this expansion will include redevelopment of other berths in the port, improvement of road and rail connectivity for evacuation of goods, dredging of the navigation channel etc. Despite this admission of the interlinked nature of the current proposal with earlier proposals made by MPT and other parties in 2017, there has been no assessment of their overall impact. This sort of assessment is statutorily mandated by an office memorandum of the Ministry of Environment, Forest and Climate Change (MoEFCC) dated December 24, 2010 regarding the process of assessment to be followed for integrated and interlinked projects.

Without a comprehensive EIA which considers the cumulative impact of these projects, all of which are situated in the same location and have identical impact radiuses, it is safe to say that the public has no way of knowing the full scale of possible impacts they will have to live with in the long run.

## **Missing social impacts and risks**

The POL berth and associated activities are proposed to be built on Kharewado beach in Vasco da Gama city. This beach is in the heart of the city and 2,000 fisherfolk live and work on this beach. They have homes adjoining the beach and land their fish catch in canoes directly onto this area. The beach overlooks Vasco Bay which has already been dredged numerous times by MPT which includes illegal capital dredging in 2016. This illegal activity was noticed, challenged and shut down through an order of the National Green Tribunal won due to the vigilance of Kharewado's fisherfolk.

The EIA report in its social impact assessment fails to mention any impacts on the fisherfolk who live on this beach or the many more

who live in the 10-km impact radius. It only states that the fishing jetty will be a boon for them and that about 70 labourers will be hired during the construction phase. The description of project layout also states that MPT wants to build a “security wall” around existing residences in Kharewado, thereby cutting off direct access to what has traditionally been their fish landing and canoe parking site. How MPT will compensate for loss of access to 50% of the beach and what the impact of dredging, construction and reclamation on fish stock and trade will be remains a mystery.

The report talks of creating a world class fishing harbour but does not state how they will accommodate berth back up areas, parking of trucks, passenger vehicles, other storage along the beach (which can be seen at the existing jetty) without displacing the fisherfolk who currently live along the beach. Without this, the assessment is incomplete.

This beach is a public beach which is still used by residents of the area despite being severely neglected by municipal authorities. The issue of privatisation of common use areas is not acknowledged in the EIA at all, let alone analysing the impacts..

## **Underplaying the environmental impact**

The EIA has an interesting take on the environmental impact of this set of proposals. It talks of how the water column in Vasco Bay is already severely disturbed and any more dredging etc will further destabilise it. It explains how dredging impacts fisheries resources. It uses 1977 field observations by CWPRS to predict changes in tide patterns. It explains that the corresponding increase in vehicular traffic from these new berths and jetties will lead to an increase in air pollution for Vasco city. But interestingly, when it comes to concrete plans on how these impacts can be mitigated, the EIA takes the stance that minimal measures such as ensuring trucks move about during only particular times or that dredging isn't done during fish breeding season will suffice.

It is important to note that there haven't been traffic studies done to explain the foreseeable increase in vehicular activity. There is no specific explanation of impact of oil spills on the ecology of this

region which is home to protected species such as the humpback dolphin and visitors such as the Olive Ridley turtle, whale sharks, orcas and an existing coral reef about 7-km from the site.

In fact, half the contents of the Environmental Management Plan represented in Table 8.2 of the EIA are missing for some inexplicable reason. The EIA in fact doesn't even record the existence of the species named above because the consultants did not spot them during their data collection trips even though there is plethora of scientific data and news reportage on the same.

## **Risk analysis and missing mitigation**

When it comes to addressing the safety risks that will be faced by fisher folk, trawler owners and associated labour, other residents and businesses which exist a few yards from the proposed POL berth, the EIA report seems to indicate that the risk is minimal. The only ones at dire risk are of course anyone who will use the fishing jetty, the passenger jetty and other launch jetties. The fishing harbour will be separated from the POL berth by a 3-metre wall. There is no explanation as to how a wall will protect either the fisherfolk or tourists or locals in the event of an explosion, oil spill or radiation leak.

The EIA also fails to mention and address the fact that numerous highly congested and important public sites like the local vegetable and fish market, municipal building, post office, court etc lie within 0.5 km of the proposed POL berth. In fact, even the fuel storage tanks of Hindustan Petroleum Ltd and coal stacks in MPT are about 0.25 km from this site.

## **Legal and procedural matters**

When this same project came up for public hearing in May 2017, it had to be cancelled because of numerous lapses in the EIA report which were highlighted by citizens. It has been revealed recently that the MPT Board meeting minutes dated march 23, 2018 (prior to the first public hearing set for this project) showed that the Board "decided" that "The time slot for each speaker will be limited and repetition of subject will not be permitted." It is disturbing that

this project proponent assumes the power to decide what can and cannot happen at a public hearing that has direct bear on whether said Project Proponent receives an EC for that very project. Public hearing proceedings are controlled by the district collector along with the team from the state's Pollution Control Board and the project proponents have no legal say in the same.

Another observation is that though the EIA text states that they have used the Coastal Regulation Zone (CRZ) notification of 2011 as the basis of demarcation of high tide and low tide lines, a first level perusal of the HTL/LTL CRZ map and its legend annexed with the EIA report shows that the Anna University as actually done the mapping based on CRZ Draft Notification of 2018 which is not in effect. Goan fisher folk have strongly objected to this draft notification and have made multiple official submissions to this effect. The use of a draft policy with no legal sanction for such an important mapping is untenable.

An important judgement of the NGT in 2017 directed states to complete the process of formulating their Coastal Zone Management Plans (CZPMs) before any projects are given environment clearances. In fact, in a recent order regarding displacement of fisherfolk from Baina beach in Goa, the NGT has again ordered the Goan government to ensure demarcation of fishing villages. In light of these judgements, it is questionable as to how the appraisal of these projects are moving forward since they are not based on the required CZMP.

### **Lack of administrative action on complaints**

Though citizens, especially fisherfolk, have raised these issues with the district collector and many other authorities, no action has been taken to address these points. Demands of the traditional fishing communities that the existing jetty be modernised so that trawlers can function with ease and the rest of the beach be handed over to them for customary use as part of their fishing village has fallen on deaf years for decades. In light of these circumstances, it becomes quite difficult to see how this set of proposed projects is for the betterment of the indigenous fishing communities in and around Vasco da Gama.



Goa citizens are no strangers to the public hearing process, having forced the Goa State Pollution Control Board to conduct a seven-day public hearing in 2017 where they unanimously rejected three proposals for expansion of coal handling and dredging activities at MPT. Similarly, October 5, 2018 too proved to be a demonstration of citizens exercising their right to participate in democratic decision making, especially as it relates to the survival of their livelihood and future generations.

*This article was first published on [The Wire](#) news portal.*

# Residents using rule of law to secure justice

Written by: Hasmukh Dhumadiya, Dated: 31st May 2017

Hasmukh Dhumadia narrates his experience of helping the local residents of a village in Gujarat in their fight for environmental justice.

Gujarat, located in western part of India, has the longest and the most industrialised coastline in the country. Majority of the mangroves on this coastal stretch are found in Devbhumi Dwarka District of the state. The district is on the southern shore of the fragile Gulf of Kutch. Back in 1982, 110 sq kms in this district was declared a Marine National Park, a first of its kind for coastal and marine wildlife protection.

Not too far away from this protected area, is BLA Coke, a company that produces metallurgical coke. In 1989, the company received its first formal consent from the Gujarat Pollution Control Board to operate its plant in Arambhada village in Mithapur. They claim to be the first company to produce premium grade Low Ash Metallurgical Coke (LAMC) in the state. They import their raw material, i.e. the coking coal from Australia and the finished product is supplied to various customers in Gujarat and other states of India.

## Not without impacts

The various operations to produce coke including “*coal charging, coke pushing, quenching, screening, stocking and loading*”, are not without impacts. The manufacturing and storage site is surrounded by grazing and agricultural land used by both the *Maldhari* and *Rabari* communities, who have been engaged in these livelihoods for generations.

The Arambhada village has these communities as its primary residents. They complain, “*...the coal dust from the company is not just a problem for human beings, even the cattle have to breath it in whenever they go to graze. The dust settles on the grass there, which is their food.*” In the monsoon, when the grass is thriving on



*BLA Coke Company, with its wall below 9 mts height. Pic: Hasmukh Dhumadiya*

the grazing lands, it attracts even more dust. The foggy conditions in this season, say the villagers, increases the intensity of this impact.

The dust from the coke oven plant has other impacts too. When the air blows from the west to east direction it impacts the mangroves and the fishing areas.

## **Coal handling in Gujarat**

According to a study on impacts of coal handling on mangroves and its ecosystem by Gujarat Ecology Commission (GEC), *“....around 18 million tons of coal is consumed in Gujarat state annually, mostly accounted for power generation. None of this coal is produced in the state and it comes mostly from Madhya Pradesh and about 4 million tons are imported coal as straight or in blend which by carbonization produces hard coke known as coking coal depending upon coking capacity.”*

The report also corroborates, what the villagers in Arambhada say, when it indicates, *“The areas near the marine national park and grazing land to such fugitive emission causing stressful environment for the nearby ecology. Coal particles can enter the marine ecosystem through variety of mechanisms like natural erosion of coal bearing strata through which the particles can leach into soil and can be transferred to marine areas.”*

## A law to control impacts

In 2010, the Gujarat pollution control board (GPCB) issued a specialized set of guidelines for handling of coal all across Gujarat. Termed as the Coal Handling Guidelines, it drew its mandate from the clauses of the Air (Prevention & Control of Pollution) Act, 1981 (Air Act). The implementation of these guidelines is mandatory for all industrial, infrastructure or power generation units across the state. It was included in conditions of the consent to operate (CTO) issued by the GPCB as mandatory required under Air Act.

This 28-point document has a range of safeguards, which if followed can help reduce or mitigate the impact of the use of coal in units such as BLA coke. For instance building of a 9-meter wall and the coal heap of a maximum 5 meters, prevents the coal dust from escaping the manufacturing facility. There are also safeguards mandating the covering of trucks with tarpaulin during transportation to avoid spillage. Water sprinkling, tree plantations are to also be carried out by units such as BLA coke.

## Can Rule of Law can help?

Karubhai Nayani, a resident of Arambhada village had complained many times to the District collector and other local officers who he thought could address the impact of coal handling. But he and other villagers did not know the right government institution and specific violations of environment laws; leave alone about the company's consent to operate (CTO). The BLA company in its revised CTO dated June 6th 2014, had a clear condition stating that the company shall have to comply with the coal handling guidelines.

When I visited the Manek *chowk* area in Arambhada back in March 2016, I met Karubhai, a supplier of housing material from the village. As I lived not too far away from the area, I was aware that there was dust coming out of the BLA coke plant, but was able to find a way forward only by understanding a specific law, in this case the Gujarat PCB's coal handling guidelines. I thought, the villagers and I can actively try to seek a remedy for the problem there were facing.



*The author with the local residents checking the clearance conditions.*  
Pic: Hasmukh Dhumiya

Karubhai, I and a few three other villagers tried to find out which law is being violated and how. My colleagues in the CPR-Namati Environment Justice Program were with me in this journey. It is through this we figured out the a link between the violation of the coal handling guidelines and impact of the dust on the grazing lands, agricultural areas and also the sea-front and fishing. When Karubhai and others read the translation of the guidelines in their local language Gujarati, they said, *"If the guidelines are complied with, the problems will surely reduce, especially with the construction of the compound wall of 9 meters height."*

### **How villagers found a remedy**

Karubhai and other villagers filed a complaint on the violation of the condition number 2 of the CTO issued to BLA Company. It was the non-compliance of this, which was causing coal dust to settle on grazing and agriculture land as well as impacting the mangroves of the area. The complaint letter was submitted to GPCB on 3rd May 2016. Within one week, i.e. on 7th May, GPCB officers from the regional office visited the site to ascertain the impacts and violations.

When they met Karubhai, he spoke the language of law. He said emphatically that the impacts being felt by him and fellow villagers are because the coal handling guidelines are not being followed.

But the story did not end there. We had to work together to find out what the inspection report contained, as it was not sent to us. Using the Right to Information Act, 2005, Karubhai filed an application before to GPCB and received the inspection report only after 30 days inspection report. What we realized was, on 18th May 2016, soon after the site visit, GPCB issued a show cause notice to the company and also gave written suggestions on how to control the impacts.

The problem still did not stop. It is only after Karubhai sent another complaint letter to GPCB on 19th September 2016, the GPCB revisited the site. On 5th October 2016, the GPCB visited the area and gave further recommendations to implement the conditions of CTO. They directed that the conveyer belt should be covered and there needs to be water sprinkling and housekeeping within and around the premises more frequently. The recommendations also included the implementation of the coal handling guidelines, especially for the company to build a 9-meter wall to restrict the dust from flying out the premises. The company was also instructed to decrease the height of the coal heap within the plant premises, which is also required by law.

## **Rule of Law to address our problems**

As I write about the issue, the BLA Coke Company has begun implementing the coal handling guidelines. The coal heap has decreased, neatly covered trucks are seen around the site transporting coal. The 9-meter high wall has been constructed at the rear boundary of the company. We are monitoring whether the impact on the grazing and agriculture land has reduced. A GPCB vigilance officer visited recently and site inspection report of 11th January 2017 confirms that compliance is taking place and impacts are likely to reduce.



*Wall surrounding the back of the company raised to 9 m after the complaint.  
Pic: Hasmukh Dhumadiya*

But more importantly, Karubhai and the others I worked with have learnt the law. Next time around they would be able to solve their problem themselves.

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# Biting the dust: How community action stopped a polluting refinery

Written by: Jayendrasinh Ker, Dated: 25th June 2017

*Dineshbhai's mobile number has its ringer off. But before that he has sent out a message to one and all. A success party is on, and everyone is invited.*

I distinctly remember that day when my friends and I had met for a routine evening conversation and one of them brought up the topic of “dusting”. Somnath Celshine Bauxite Pvt. Ltd., he said, was creating too much of it. What he meant was that the company’s operation was generating a lot of dust, which was polluting the area. He did not know whether it was toxic, but it was surely bothersome.

Over the last year and half I had gained a little knowledge about how laws can be used to control the problem of industrial dust, which I shared with them. We decided that we would try and visit the area next day to see it first hand and also meet the people impacted.

Somnath Celshine Bauxite Pvt. Ltd. is situated in Dharampur village of Jamkhambhaliya Taluka. Jamkhambhaliya is the main centre of the Devbhumi Dwarka District and is famous for its vegetable business. Farmers who belong to the Satvara community plant most of the vegetables, and in Dharampur village they make up about 90% of the entire population. They specialise in the skill of growing vegetables on small patches of land.

## The impacts of “dusting”

When we visited the area, we met with Dineshbhai who told us that the company has been carrying out the activity of bauxite loading and unloading, and has also been processing it within the plant premises for the last 30 years.

This extensive use of Bauxite without applying any safeguards has caused mineral dust to spread in the nearby areas, especially on the farmlands. This has directly affected the ploughable land of the





*The Somnath Bauxite Plant*

farmers. We saw a large, unprotected mound of Bauxite in an open plot area. There was also no sprinkling of water on it (sprinkling of water makes the bauxite dust floating in the air settle down).

The residents of Dharampur clearly told us, *“We have been living near the company and cultivating vegetables. But there is constant dusting and it is impacting the quality of the vegetables produced.”* I learnt that it was because of this occurrence that farmers were not getting a good market price. I was not sure of the extent, but it was possible that it was also creating a public health concern for the entire farming community living around the company.

In summer when there is no crop on the field, the dust covers up fertile ploughable land. When monsoons follow, the water does not penetrate into the land due to the thick layer of bauxite dust. It makes it the land either unusable for cultivation or requires extensive inputs for making it ready for sowing. According to the farmers, annual farm production has gone down by 30%.

### **Working together to bring change**

Dineshbhai was clear he wanted to do something. During my second visit to the area, I came back with specifics. We discussed the possibility of using the law and write the letter to the Gujarat Pollution Control Board (GPCB) on August 20, 2016. The GPCB, under

Section 17 of the *Air (Prevention and Control of Pollution) Act, 1981* (“**Air Act**”), can take action to correct the situation.

But this was not something that Dineshbhai and I could do on our own. We requested as many affected people as possible to come for a meeting. Here we informed them about this possible action to address the problem and 30 farmers willingly joined in. Dineshbhai’s persuasion mattered a lot.

We also needed evidence that could support our complaint. Using an application under the *Right to Information Act, 2005*, Dineshbhai managed to get copies of the company’s consent to operate and the earlier directions, and show cause and closure notices that were issued to it. These were related to the Air Act. It was only after finding legal hooks through all this that we were ready to send the formal letter to the GPCB asking them to visit the bauxite company.



*The author (Jayendra) and Dineshbhai with some other community activists*

But no action was taken. We waited for one month and sent a reminder letter. Simultaneously, Dineshbhai and others also filed an RTI application enquiring if any action had been taken based on the letter. The GPCB still did not visit the company’s premises forcing us to write yet another letter to them.

Finally, Dineshbhai had visit to the GPCB in person and inform the regional officer that the company had violated the provisions of the Air Act and conditions of the consent to operate. He also highlighted that this has happened in the past too and therefore the GPCB itself had issued notices. Dineshbhai asked the officials to visit the company and take necessary action.

Soon after, they did carry out a site inspection. Unfortunately, Dineshbhai could not be there but his brother and a few other villagers were present. During the visit the officials took picture of the standing crops and visually documented the actual on-ground situation.

### Was the problem solved?

The site inspection report dated November 20, 2016 clearly recorded eleven problems, including the fact that bauxite was being loaded in the open plot area and the mandatory air filter bag (a device used to prevent bauxite dust from entering the chimney) had not been used by the company. It directed the company to take immediate and necessary actions to prevent the dust from flying out of the premises, and to run air pollution control instruments regularly. Instructions were also given to cover the crusher, conveyor belt and elevator belt and stop leakage. Some other technological compliance requirements were also clearly communicated.

Following the visit and directions of the GPCB officials, within two months of the complaint, the operations of the company were halted for three months. The visit report had clearly stated that the company had to inform to GPCB before starting the plant. Today, they have started using the filter bag, covered the bauxite pile in the plant premises and are taking precautions during the transportation. Dineshbhai and villagers of Dharampur continue to the watch. They have asked the GPCB to share a copy of the letter sent by the company to the it, stating how they have complied with the law.

Dineshbhai's party was a big hit and the vegetable farmers are relieved having received the remedy. After all, there is no "dusting" to deal with for now.

*This article was first published on [myLaw](#), where students and professionals can self-learn legal research, legal writing, drafting, and human rights law.*

## More money for more dust

*Written by: Harapriya Nayak and Santosh Dora,*

*Dated: 18th October 2017*

*Harapriya Nayak and Santosh Dora share their experience of working with the tribals of a small village in Odisha, who were suffering because of heavy mining happening in their area and how they brought about a change.*

There is a saying, “*The tiger has devoured the past*”. Earlier people were eating leafy vegetables and lived for 100 years, but at present they die before they are 60. We have been facing the problem for the last 10 years. This is what Sukri an elderly woman of Purunapani village says about the dust problem in their area.

Dust and only dust could be seen everywhere, giving an ominous portent of a disaster. This is an apt description of Joda and Jhumpura blocks of Keonjhar District of Odisha. The district is mineral rich and is known as the land of riches, though its inhabitants, primarily



*Dust generated in transportation of minerals to Railway siding at Nayagarh, Odisha.*

*Pic: Harapriya Nayak*

tribal communities like *Kolha*, *Santali*, *Bhuyan* and *Juang*, have lost everything - the forest and their habitat. The forests and farmlands of the area had nourished them for generations, and today much of it is lost.

The Supreme Court had appointed the M.B Shah Commission in 2010 to investigate the mining projects in Keonjhar. Since the investigation, 32 mining projects have been shut down, but there are 88 mines still in operation. The commission had come out strongly against a range of illegalities in mining operations that included gross violation of Environmental Clearance and Consent to Operate procedures.

Justice M. B. Shah in his report of June 2013 clearly pointed out that all along the roads which are passing from and to the villages, on both sides about 150 meters, there is widespread dust pollution and thereby the trees are covered with dust particles and matching with the colour of minerals.

From this situation, one could imagine the fate of the villagers who are residing in these areas.

### Living with losses

The entire stretch from Keonjhar to Joda, Balani and Guali has a noxious combination of dust and country liquor making (known as handia). More than 1000 trucks and dumpers are used to transport minerals every day. These minerals are also transported, without any safeguards, through 13 Railway Sidings or in simple words, loading and unloading stations. The minerals are transported to industries like Kalinga Steel, Paradip port of Jajpur District etc. Accidents are a common occurrence in the district, as the movement of vehicles is completely unregulated.

With the mine operators completely disregarding the Rule of Law and carrying on despite strong recommendations of the Supreme Court appointed committee, was there something that could be done to turn the tide?

As part of the collaborative action research project of Keonjhar Integrated Rural Development and Training Institute (KIRTDI),

Keonjhar and the CPR-Namati Environmental Justice Program, we began taking a few steps. The first was to understand the kinds of impacts people were facing due to the mining related dust and the extent to which the environmental safeguards were being violated. As part of our initial investigation we realized that more than 5 lakh families are being affected by such activities, nearly 1800 people of which were in the Purunapani, Naibuga, Loidapada, Jalhori villages that are in the study area.

What also came to light was that most of the Plants and mines in Joda and Jhumpura block of Keonjhar District do not comply with the mandatory environmental conditions like sprinkling of water to control dust on the roads, dumping yard, and the mine overburdens. While black-topped or concrete roads and water sprinkling are not enough, it can certainly reduce the amount of dust reaching people's homes and farmlands. The same applies to covering the trucks carrying iron ore or manganese with tarpaulin. These requirements are clearly laid in the Consent Orders issued by the State Pollution Control Board and Environment Clearance granted by the environment ministry.

## Life in Purunapani

This is the story of Purunapani, a tribal inhabited revenue village of Jhumpura block, known to be in existence for nearly 200 years. Earlier ensconced in dense forest, the village presently has 37 households with a population of 172 people, of which majority are tribals.

The village is located in Jhumpura block at a distance of 4 kilometers on the road from Palaspanga to Bamaberi. The village is bestowed with enthralling natural beauty. It is surrounded by forest on three sides while river Baitarani flows on the western border of the village. The inhabitants have kept their traditions and customs intact. Earlier agriculture was their primary occupation and that apart they had collected forest produces to eke out a living, but neither agricultural nor forest land is available at present.



*Pattanaik Steel and Alloys Ltd in Purunapani village of Jhumpura Block, Odisha.*  
Pic: Harapriya Nayak

The road has dense forests on both sides with hardly any passer bys and potholes full of water that is black in colour. When we first travelled to the area, we had doubts whether there was anybody living in the village. But Purunapani did exist and the first sign I, Harapriya, saw there read "*Pattanaik Steel and Alloys Ltd*". Next to it was a village and just behind its operations, flowed the Baitarani River. Five tribal households are located on that side of the village.

I visited the home of late Durga Majhi. His wife did not seem mentally stable and there were five children living in a dilapidated house. Their 18-months old child appeared severely malnourished. There was no possibility of a discussion on what went wrong.

The villagers shared that Durga Majhi was a worker in the Pattanaik Steel and Alloys Plant and they also claimed his health was severely affected by working in the Plant. The company did not take any responsibility or pay compensation after Durga Majhi died. Even a visit to the bigger city hospital in Cuttack could not save him. The first six months after his death there was food in the house and then things just became worse. Today Durga's wife has no access to government schemes or any pension.



Family of Durga Majhi. Pic: Harapriya Nayak

This pushed us even more to work with the villagers to address the problem of dust pollution in the area.

### **More money for more dust**

When we interacted with the villagers, especially women they said in Purunapani *“There would be more money when there is more dust on the road.”* They laid out all the impacts and effects of mining for us ever since Pattnaik Steel Plant has been in operation. Loss of agricultural land, risks due to the movement of heavy duty vehicles, muddy water during rains, dark smoke from the Plant especially at night, were all listed. Some villagers they say have gotten money in return of these losses and damages.

But the level to which the people had accepted this reality was telling. Mayurika Mahanta, a resident of the village said, *“There will be smoke and dust since there is a Plant, nothing can be done about it, we have got habituated to it and it seems as if nothing has happened. There is benefit on one hand and loss on the other and this is nothing new”.* Many men work in the Plant, he added.





*Minerals being transported without the covering of tarpaulin. Pic: Lalit Patro*

Some villagers did approach the Panchayat as well as the Plant management with complaints but to no avail. And as they were not aware of the law they didn't have strategies to address the issue.

### **Working for change**

After a series of interaction and orientation on the legal hooks to resolve the dust pollution issue, ten women from the village came forward to find a way out of this mess. We were able to have detailed discussions on what could be done using law. That the effects of mining were occurring due to the violation of conditions of Environmental Clearance and Consent to Operate was not known. When it was evident that the law was on their side, the decision to file a complaint was easily made. The women understood the risks, since their men folk worked in the Plant, but they were united in addressing this issue which impacted them the most.

In their letter to the Keonjhar regional and state office of the Pollution Control Board (PCB), the women highlighted that Pattanaik Steel and Alloys Ltd was violating Air Prevention and Control of Pollution Act (1981) through emission of smoke and

generating dust in transportation of minerals without covering the truck load with tarpaulin. Due to massive scale of transportation on the village road, the condition of the road was very bad which led to more dust and impacted the agriculture fields on both sides of the road.

After the complaint, PCB's regional officials visited the site on 23rd March 2017. Interestingly while they upheld the violations related to dust, they were not as vehement about the waste discharge in the river. In the inspection report PCB clearly mentioned that, "Approach cum transportation road is of kacha type road which is in a very bad condition". Dust emission was observed during movement of vehicles on the road.

### Ground level changes

Following the complaints and the site visit by the PCB, a Smoke Management System (SMS) has been repaired and a pond of larger size has been created in the Plant by the mining company. The company has been instructed to control the smoke, black-top the road and sprinkle water on the road regularly. The company



*Purunapani road is repaired, mineral transportation with covered back and water sprinkling is happening. Pic: Harapriya Nayak*

has purchased a 7 acres of land at Hatimara, a place located at a distance of 7 kilometers from the Plant to dump its waste and will establish a fly ash making unit. As per the compliance letter, the work is ongoing.

Mayurika Mohanta and the ten women who came forward to file the complaint say they are quite happy to see the changes. Residents of Naibuga, the neighbouring village of Purunapani, are now following in the footsteps of Purunapani's women.

*This article was first published in [indiatogether.org](http://indiatogether.org), with the support of Oorvani Foundation - community-funded media for the new India.*

## Residents of a municipal dumping site fight back

*Written by: Vimal Kalavadiya and Shvetangini Patel,*

*Dated: 21st April 2016*

*The women of Meghpar village of Kutch District are fighting the big port town Gandhidham municipality which is dumping its waste in their village. Vimal Kalavadiya and Shvetangini Patel report from Kutch.*

Meghpar, with a population of about 2000 engaged in different occupations such as pottery, masonry and other labour, would have been just another village in the Kutch District of Gujarat. That was till the time a huge solid waste dump, carrying all the waste from the huge port town of Gandhidham and its municipal area, began finding its way to the edge of this village. The town is located about 10 kilometres from Meghpar.

Burning of this waste created large quantities of fumes and stench in the village; cattle strayed into the unfenced site but the mountain of the dump just kept growing. The problem had been continuing for a good three years and by late 2015, the residents of the village, especially the women, were determined to find a remedy.



*Burning the waste of Gandhidham at Meghpar. Pic: Shvetangini Patel*

Chandaben Joshi, who is associated with Ujjas Mahila Sanghathan (UMS), an organisation working around the area took the lead. UMS had recently collaborated with the CPR-Namati Environment Justice Program, where the two organisations are partnering to bring in remedies for such problems ensuring legal compliance.

## **Is there a legal hook?**

Whether a legally tenable remedy was possible in Meghpar needed to be assessed. When we began gathering more information and did background checks on the issue, the first question that came to mind was this: How is this site complying with the laws related to municipal solid waste, especially the provisions of the Municipal Solid Waste (MSW) Rules, 2000?

In cases such as Meghpar, which are bearing the burden of all the waste that towns like Gandhidham create, who is to monitor the waste disposal and management? Are people aware of the waste being created and handled?

The people of the village and the team associated with the partnership on environment compliance had many questions. They wanted to understand what the experience at other waste dumping sites in India had been. When there is a problem, whom do you go to?

## **Looking for a remedy**

UMS and CPR teams visited the village along with Chandaben and held meetings with a group of women of the village who were actively trying to seek remedies for the problems they were facing.

The women said, “We have been living here for many years now, but will have to move to another place if the problem is not resolved. The municipal solid waste disposal site is being operated in a very bad way. They are dumping all types of mixed waste and throwing even dead animal carcasses at the site. The site catches fire most of the time; there is no boundary to protect the adjoining land which also gets polluted by the waste. People have to suffer from the stench of decaying animal bodies and mixed waste.”



*Dumping all types of waste including dead animal carcasses. Pic: Shvetangini Patel*

The women added that the problem had been shared with the municipal authority but received no response. They also pointed to reports in the local newspaper that spoke about the problem.

At one point, frustrated with no response, the women had walked over to the site and attempted to stop the operator from dumping waste on the site. The site operator simply filed a police complaint against the group of women. This was a push back at one level, but they were not willing to give up so easily.

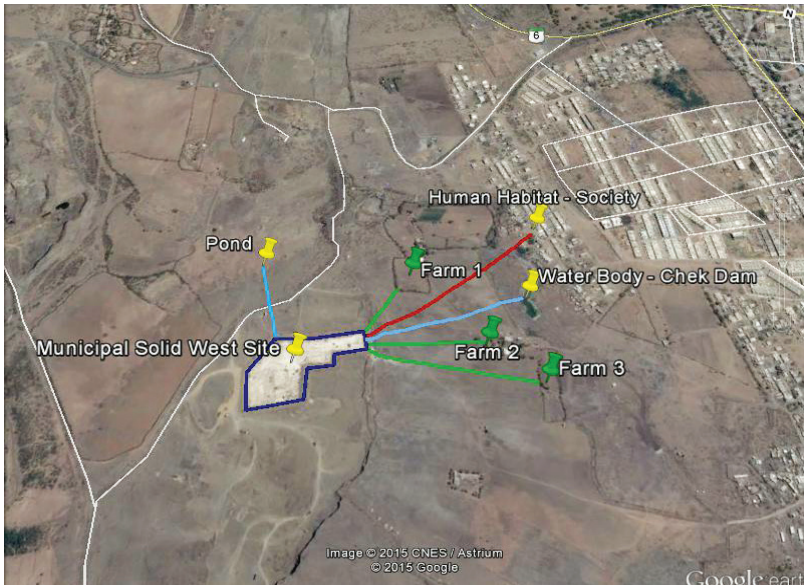
### **Finding a route for the remedy**

Central to the community paralegal approach of the partnership program, the first step was to find out if any law was being violated by the municipality and what the law in particular was. This would be critical for assessment of whether the problem was created by a legitimate process or if there had been violation of laws.

That in turn would help them gauge the likely place or authority from whom they might get a response. For example, if the Gandhidham municipality was found to be a violator, approaching them would perhaps not be the best idea, they thought. As when they approached the municipality earlier, it will not respond to their complaint.

This exercise revealed the existence of clear guidelines put forth by the Central Pollution Control Board as the Municipal Solid Waste Management Rules 2000. The group did a collective reading of the rules with the women; the clauses of the law applicable to the Meghpar MSW site were read out in the local language Gujarati so that all could comprehend.

While reading the MSW rules, the group realised that the municipal authority should have taken permission from the State Pollution Control Board to set up this site. This document is known as the authorisation letter. Prior to granting such authorisation the Gujarat Pollution Control Board officials would need to visit the proposed site and prepare a report.



*The dump site map. Pic: Shvetangini Patel*

The next step before the group then was to get access to these documents to ascertain whether these steps had been followed. Using the Right to Information Act, 2005, the documents were accessed within 40 days.

There was now a second collective review, in the same way that the MSW Rules had been read out. The documents revealed that the several MSW rules had in fact been violated:

- Selection of the landfill site had not taken into consideration the relevant environmental issues as stated in the MSW Rules, 2000.
- No provisions had been made for prevention of run-offs from the landfill area into a stream, river, lake or pond.
- The landfill site had not been protected to prevent the entry of unauthorized persons and stray animals.
- Landfill site was not located away from habitation clusters, water bodies, and place of religious interest and the distance as prescribed by the State Environment Impact Assessment Authority (SEIAA) was not maintained.

These and several other conditions formed a part of a fresh round of complaints sent to the GPCB citing the impact and linking it to the violation of MSW Rules, 2000. However, there was still no response.

## **Preparing to demand a legal remedy**

After almost a month had passed from the filing of the complaint, the women's group decided to go visit the regional office of the GPCB located 56 kilometres away at Bhuj. The objective was not to have a heated confrontation over their inaction. On the contrary, the team and in particular, the enviro-legal coordinator along with the women's group sat down to prepare for the meeting, just as they would before heading into an examination. They wanted to know the legal provisions and understand the violations before they spoke to the concerned officials.

Since the group had several older women, many of them illiterate, creativity was the key. The coordinator took the lead and developed a basic game to help them understand the MSW rules, 2000.

This game included pictorial representations of the relevant clause of MSW rules. Each picture was numbered. The women had to then correlate the specific clause related to the issue at hand, onto a blank display sheet, and in the process learn the law. It was time now to visit the GPCB regional office.



## Seeking the remedy

When the group reached the GPCB office and asked to meet the regional officer, they got a response that he was busy in a meeting with other officials visiting from New Delhi. But the group of women insisted, and demanded to meet all the officials including those who were visiting from the central office. After three hours of wait and persuasion, they succeeded in getting their way.

It was no ordinary meeting. The women raised the issue, with a point-by-point reference to the law and the violations by the site operator before the regional officer and other present. This, they pointed out, was part of their written complaint as well. The arguments were convincing enough for a site visit by the GPCB.

At 1 pm on 25 January 2016, two officials came to Meghpar. Four women and one man met and spoke to them. The women accompanied the official team to the site and also insisted on seeing what was being noted. Photographs of stray cattle roaming free in the dumping site were shared once again with the officials.

An official questioned, “How can we ask the cow not to enter the dumping area?” to which one of the women responded, “Agreed we



*Cattle roaming in the dump site. Pic: Shvetangini Patel*

can't, but we can surely have a fence as required by law, so that they don't stray away and eat the waste."

Interestingly, the officials also tried to convince the women that they don't have powers under the law to relocate the site, which rests with the municipality. The women, empowered by the law, pointed to them to a condition in the authorization letter, which said that, "GPBC have the powers to revoke the authorization itself if the safeguards listed are not followed."

## The action

Unfortunately, despite a show cause notice issued to the operator of the site, blatant violations continue till date.

On 3 March 2016, GPCB had issued the notice to the Gandhidham Nagarpalika. In the notice they said that at the time of the site visit, they observed a lack of compliance with the Municipal Solid Waste Management rules, which is causing grave environmental impacts. The notice adds that this is an offence under the Environment Protection Act 1986 and has sought the municipality's response, as is usually the case with such procedures.

Meghpar's women, meanwhile, are clear and focused on their goal. Even as this story is being written, they are planning their next steps.

Either 10 kilometres to the Gandhidham municipality or 56 kilometres to the GPCB's regional office, one of these roads they say will lead them to their desired remedy.

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# Holding a municipality accountable

*Written by: Hasmukh Dhumadiya, Dated: 31st July 2017*

*Hasmukh Dhumadiya describes the ordeal of residents of Bakshipunch Society in Dwarka, Gujarat, and their efforts in overcoming it.*

Bakshipunch Housing Society is located in Arambhada in the district of Devbhumi Dwarka in the western Indian state of Gujarat. It is one of the four villages located in the Okha Nagarpalika (i.e. municipality), the other three being Okha, Devpara and Surjkaradi. The diversity of these four “urban” villages is extremely varied cutting across a range of occupations and communities, which includes the Rabari, Vagher, Kharva and Dalits.

The Bakshipunch Housing Society is home to about fifty Dalit families. In fact, the literal translation of the word Bakshipunch is Dalit, a community considered to be the lowest and most marginalized group in India’s caste hierarchy.

For the last 25 years at least the Okha Nagarpalika was dumping large quantities of municipal waste within 100 metres of the Bakshipunch Society. This dump included industrial waste, municipal waste as well as dead animals, including dogs and cattle. Giving contracts for this dump, was not a casual but a political act. The Okha municipality knew that the residents of housing society are powerless and would not speak up.

Bakshipunch is on a lower slope area. During Monsoon all the dumped municipal waste would enter into the housing colony. At other times, the waste would be burnt by Okha municipality, the fumes of which not just reached Bakshipunch, but spread far and wide.

Residents of Arambhada village, including from Bakshipunch had complained of several health problems like, malaria, typhoid and dengue. They couldn’t prove it was due to the dumping of waste and the contamination thereafter, but strongly felt that this was an important contributing factor.



*Burning of the municipal waste near Bakshipunch Housing Society.*

Pic: Hasmukh Dhumadiya

## Could this change?

That was the question I asked myself for a long time, as I lived not too far away from the housing society myself. Can the damage be undone, and not made to repeat itself? It was not till I understood, that if one tries understanding whether the dumping is legal or illegal, there could be a way out. After all, there must be procedures that the municipality would have to follow.

When I visited the Bakshipunch Society in Arambhada village back in March 2016, I was keen to understand the problem fully, before any legal process could be invoked. I met many people in their homes, all of who complained of health problems due to the municipal dump. I was not sure if all of it was true, and if yes then none of us was in a position to immediately prove it.

## There was a legal hook

One way to address the problem was to find out whether there was a legally tenable remedy for the residents of Bakshipunch Society. If it were the case, it could indirectly address and reduce the range of impacts, including on health. Residents like Mangabhai, Abbashbhai and Azgarbhai, all were very forthcoming to work together on this.



*Waste lying around near Bakshipunch Housing Society. Pic: Hasmukh Dhumadiya*

We first began gathering all possible information and did background research on the history of the issue. The first question that came to my mind was: How is this site complying with the laws related to municipal solid waste, especially the provision of the Municipal Solid Waste Rules (MSW), 2000 (now revised as the Solid Waste Management Rules- 2016)

In 2000, the Ministry of Environment and Forest, New Delhi notified the Municipal Solid Waste (Management and Handling) Rules issued under the Environment (Protection) Act, 1986. The implementation of this notification is mandatory for all municipalities across India. The law has a range of safeguards to mitigate the impact of collection, segregation, storage, transportation, processing and disposal of municipal solid waste.

In 2016, the Municipal Solid Waste guidelines of 2000 were replaced by the Solid Waste Management Rules. While the earlier guidelines were applicable to municipal authorities, the 2016 rules were applicable to all the waste generators.

In the case of Bakshipunch dumping it was clear that the following clauses of the 2000 Rules were being violated:

- the landfill site shall be away from a habitation cluster, forest area, national park, water bodies, historical place (schedule iii clause 8).
- landfill site shall be well protected to prevent entry of unauthorized persons and stray animal(schedule iii-clause 11,12).
- There should be a wall around the waste disposal area to prevent pollution. (schedule iii /clause 22b)

The Rules made it clear that other than the site selection, the municipal authority will be responsible for the development, management, and reporting of dumping sites.

### **Our efforts to secure a remedy**

Our first step was to understand the law that our problem was up against. Eight of us, including myself and affected people from Bakshipunch Housing Society decided to read the text together. As soon as we understood the clauses and how they applied to the dumping in Bakshipunch we filed a Right to Information application before the Jamnagar office of the Gujarat Pollution Control Board (GPCB). This is because Section 6 of the MSW Rules, 2000 indicates the municipality has to get an authorization letter from GPCB to operate the municipal dumping site. We wanted to know whether such a permission has been sought and under what conditions.

On 20th April 2016, based on the information in hand people from the housing society who understood the law, wrote to the GPCB office to ensure that the Okha nagarpalika followed the provisions of the MSW Rules, 2000.

Within five days there was a response. The GPCB's Regional officer sent a written instruction to Okha nagarpalika to implement MSW Rules 2000; not to burn plastic waste and emphasized other requirements of the law. They also said that the as per the 2000 Rules, an authorization needs to be taken from the GPCB. The letter was dated 25th April 2016 and signed by the Regional Officer of the GPCB and addressed to the Chief Officer of the Okha nagarpalika.

But the problem persisted. Okha municipality continued to throw solid waste near Bakshipunch, and it was time to meet with the Chief

Officer of the Okha nagarpalika. This time it was a meeting where people backed their claims with a strong understanding of the MSW Rules and reminded the municipality of their obligations. 17 villagers and I met the Chief Officer on 18th July 2016 and emphasized on all the violations and clearly stated that the dumping site is operating without any permission of the GPCB .

The officer assured *“in 2 to 3 days your problem will be solved”*. But the dumping continued. We did not give up and went back to nagarpalika, only to realize that both the officials who had given us a verbal assurance were now transferred.

On 28th May 2016 another complaint was filed to GPCB, Jamnagar and copied to District collector of Devbhumi Dwarka. When we went to meet the GPCB officials, they told us that the responsibility to comply was of the Okha nagarpalika as directions were already given.

*“District municipal officer said to meet mamlatdar and your problem will be resolved. Then we went to meet mamlatdar and then mamlatdar said you meet the chief officer who is the responsible officer. At one point it really frustrated us”,* said one of the residents of Bakshipunch Society describing their efforts to secure government action. This back and forth from government offices led us once again to the Chief Officer of Okha nagarpalika.

On 18th July 2016 the villagers complained to District municipal officer (DMO). It took a month, but on 24th August 2016 he sent a response letter to the Chief Officer and Pramukh (head) for emergency municipal solid waste disposal of Bakshipunch Area. They also did a planning exercise for disposal of waste in the area. Unfortunately, this did not include the affected people, but it did ensure that the waste dumping in Bakshipunch stopped.

## **It was not easy to get the final action**

In the course of getting this issue resolved a lot had happened. There was internal fighting amongst community partners I was working with. Whether to meet the responsible officer or who is to send a complaint letter, was not just a matter of enthusiasm but

also competitiveness. But there were a few people who stood their ground, and Devshibhai was one person who was consistent about being focused on the remedy and not his fame. Then villagers were also fearful of local politics. In fact the initial set of people who came forward to work on the issue, dropped out. It meant that some of us committed to use the law to get remedies for such problems had to reach out to others, and Devshibhai had emerged through that process.



*The dumping site was cleaned and cleared after the residents of Bakshipunch Housing Society pursued the municipal officer to fix the issue. Pic: Hasmukh Dhumadiya*

But the biggest learning from this process was fixing responsibility on a specific institution and tracking how many offices the complaint is traveling too, before action is taking. In fact in some cases it appeared that the different government departments were simply passing the buck and keeping us busy by directing our attention to another government department.

It was almost a year after I had first gone to Bakshipunch and begun the process of learning the law to get remedies, there was action. On 21st March 2017 yet again residents wrote reminder letter to DMO and it was only in April 2017, when the DMO took the final action of getting the site cleaned. People finally received a long awaited remedy.



With this we were sure of two things. First, this time the action was piecemeal and the DMO had clearly understood that any slip would only be responded to with our perseverance; and second, Devshibhai and six others who worked together to get Bakshipunch free of the municipal waste, would stand their own ground, if the problem would occur again.

Today, the housing society and the surroundings are free of the litter. The area has also been disinfected following the final action by the DMO. But, our challenge now is to ensure that the responsible institutions have not just displaced this dump to another vulnerable community. That would not be justice, right?

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# Non-compliance and Sarguja plant

*Written by: Krithika Dinesh and Sandeep Patel,*

*Dated: 10th October 2016*

Public hearing is an important step in the environmental clearance of any developmental project. For Sarguja Thermal Power Plant, attached to a coal mining block, the hearing was postponed despite community leaders pointing to non-compliance of several conditions of the environment impact assessment.

On December 30, 2015 a public hearing was supposed to be conducted in Sarguja, Chhattisgarh as a part of the 'environmental clearance' process of a thermal power plant (TPP). However a few days prior to the scheduled date, the district collector of the region 'postponed the public hearing until further notification' (Das, 2015 December 26).

Earlier on December 21, 2015 a group of community representatives of the region submitted a letter to the district collector highlighting the obvious discrepancies in the draft environment impact assessment (EIA) report prepared by Greencindia (a consulting firm) highlighting the non-compliance of environmental clearance conditions of the main coal mine with which Sarguja Thermal Power Plant was interlinked by design.

## A mine and its power plant

The facts of this story are simple. There was a coal block that was allocated for mining way back in 2006-07 to the Rajasthan Rajya Vidyut Utpadan Nigam Limited, a state owned enterprise. It subsequently received its environmental and forest diversion related approvals on December 21, 2011 and March 15, 2012 respectively. The TPP under question was always part of the plan to operate this mine as it was to operate using rejects from the coal washery associated with the mine. Both the mine and proposed TPP are located in the Hasdeo Arand region of Chhattisgarh.

The Hasdeo Arand region is one of the last intact large forest tracts in central India. Being resource rich, it has been riddled with difficulties for a long time now. It is also home to a large and vulnerable population where over 90 per cent of the residents are dependent on agricultural cultivation and forest produce for their livelihood (Janabhivayakti, 2014).

From being declared a 'no-go' to 'go' area for mining; the forest clearance given is being disputed, especially in the light of the community forest rights being recalled, that too on grounds of these interfering with mining activity. What is important to understand is that the recognition of these rights was a mandatory precondition for the forest diversion to take effect (Kohli, 2016 February 25).

The mining, development and operations of these coal blocks were handed over to a 100 per cent subsidiary of Adani Mining Private Limited-Sarguja Power Private Limited (SPPL) in 2011. As of now, the environment clearance process for the TPP, consisting of four step-screening, scoping, public consultation and appraisal, is underway. The proposed public hearing which was deferred by the collector is part of the public consultation phase laid out in the EIA notification, 2006.

Through an applied research project, it was found out that there is evidence of non-compliance of the coal mining project. The mandatory conditions of the TPP are also being slowly weeded out. Community representatives from the three affected villages of Salhi, Hariharpur and Ghatbarra, together with a non-governmental organisation, Janabhivayakti filed the right to information (RTI) applications, following news reports, photographs and GPS mapping. When comparison between the legal documents and ground realities were drawn non-compliance was found for several crucial conditions regarding environment clearance of the mining project.

Projects of this kind are termed Category A under the EIA notification, 2006 and have to secure approval from the Ministry of Environment, Forests and Climate Change. At the state level, these are 'high impact projects' and hence, their compliance has to be closely monitored by regional offices of the ministry as well as a state level regulatory agency set up under the EIA notification.

## Past performance and future approvals

Unfortunately, environmental clearances in India are not linked to the past performance of the project. This is unlike in other sector or spheres, where past performance is heavily relied and valued. Hence, the citizens facing the impacts of these projects are often met with the task to track down the compliance or non-compliance of earlier projects.

In this case, when the terms of reference (ToR) of the TPP were looked into, several instances of non-compliance of conditions were found. One of the conditions stated in the initial environmental clearance of 2011 for the coal mining project was that the location of the thermal power plant was to be finalised on the basis of consultations with villagers. However, there were no consultations held in reality (Janabhivyakti et al., 2016).

While the initial ToR for an EIA of a coal mining project clearly states that a linked super critical power plant must come up to utilise coal rejects from the mining operations, the draft EIA report of the thermal power plant presents it otherwise. The linked TPP, they claim is a 'greenfield project'—one that is not constrained by prior work. Being a greenfield project implies skipping through a few steps of compliance. Also, status reports of compliance with conditions in the previous phases don't have to be submitted.

However, it was found through official documents, photographs and newspaper reports that the conditions of coal transportation were violated and there was evidence of river pollution caused due to non-compliance of various other conditions (Janabhivyakti et al., 2016). The non-compliance of conditions in the first phase of the project was cited by the community to argue against the TPP.

For now, the public hearing is postponed and the coal mine is still running. The project proponent is still the same while the TPP is still under consideration. It remains to be seen whether past performance will be considered while reviewing future proposals.

## Endnote

The Notification on EIA of developmental projects issued under the provisions of Environment (Protection) Act, 1986 has made EIA mandatory for 30 categories of developmental projects. However, more often than not, non-compliance of the conditions demanded under the EIA is the norm. It is only when affected communities take it upon themselves to challenge such non-compliance that the actual aim of the notification would be achieved.

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## Chhattisgarh's 'No-Go Area' for coal mining faces the prospect of being opened up

*Written by: Debayan Gupta and Bipasha Paul*

*Dated: 5th October 2018*

The Hasdeo Arand spans more than 1,70,000 hectares of dense forest land. If coal mining projects are given the green light, the ecological balance of the state will be tipped, effecting the lives of thousands.



*Several villages would have to be displaced if the coal mines were to become operational. Representative image. Credit: Reuters*

On September 27, the Parsa Open Cast Mine (OCM) in Chhattisgarh, was on the Expert Appraisal Committee's (EAC) agenda for consideration of grant of environmental clearance. Parsa is one of 30 coal blocks in the Hasdeo Arand, an intact area of dense forest cover in central India. In 2009, the entire area was termed as a "No-Go Area" for coal mining based on a joint study conducted by the Ministry of Coal and Ministry of Environment, Forests and Climate Change (MoEFCC).

Since February 2018, Parsa OCM has come up before the EAC on three separate occasions. Although deferred twice for want of additional studies, the proposal is being continually pursued despite several regulatory violations, faulty gram sabhas and pending recognition of forest rights. The push for getting clearances is not just limited to the Parsa coal block and extends to many more in the area. If any are granted, it will be disastrous for the ecological fragility of the region and destroy the lives and livelihoods of thousands.

## **Opening up the Hasdeo for coal mining**

At present, there are two operational mines in the Hasdeo area: Chotia and Parsa East and Kete Basen (PEKB). The forest diversion approval for Chotia came in 2011, but it was re-allocated to Bharat Aluminium Company Limited in 2015. The approval for PEKB was a negotiated outcome between the Forest Advisory Committee (FAC), which recommended against the approval thrice, and the then minister Jairam Ramesh. The minister approved Tara and PEKB coal mines, stating that they were located on the outer fringe of, and not in the biodiversity rich Hasdeo Arand. On account of the fringe being separated by a well-defined ridge and an entirely different watershed, the ecological impacts would be minimal, he claimed.

However, these were approved with one very clear condition. The stage-II forest clearance granted to PEKB clearly states in condition 21 that, “the State Government shall not put forth any new proposals to open the main Hasdeo Arand any further for mining purposes.”

Despite clear conditions and specific orders on not opening up the Hasdeo Arand, since 2017, numerous proposals for environmental and forest clearances for coal mines in the Hasdeo Arand are being brought before the MoEFCC. The Parsa OCM has come up in the EAC’s agenda thrice and on the FAC’s agenda once, the Madanpur South Coal Mine has been issued a Terms of Reference (ToR), on the basis of which the preparation of the draft Environmental Impact Assessment (EIA) report is on the way. The Kete Extension coal block has been given an approval to commence prospecting for coal and very recently Paturiya Gidmuri OCM has put forth an application for a forest clearance in July 2018, and been considered by the EAC for

the grant of ToR in September 2018. In addition to this, the already operating mines of PEKB and Chotia have recently in April 2018 been given clearances for capacity enhancement. These coal blocks are all within the 1,878 square kilometres of the Hasdeo Arand coal field and are located not very far from each other.

### What will the opening do?

The Hasdeo Arand spans more than 1,70,000 hectares and a perusal of the proposals submitted reveals that the total amount of forest land which would be diverted for the various coal mines in the area would amount to 7,730.774 ha. The average density of the forest which could be lost is around 0.5-0.6, and it would be nearly impossible to remediate the resultant loss from all the tree felling in the area.

### List of coal blocks in Hasdeo Arand with land use details, EC and FC status

Name of Coal Block	Total Forest Land	Total Non-Forest Land	Status of EC	Status of FC
Chotia I&II	801.1 ha & 316.826 ha	Chotia I: 56.838 ha (Government Land) 243.105 (Private Land) Chotia II: Nil	Capacity expansion from 0.75 MTPA to 1.0 MTPA granted in April 2018.	Granted in 2011. Transferred to BALCO in 2015.
Kete Extension	1,745.883 ha	Nil	Nil	Permission for prospecting has been granted.
Madanpur South	660.26 ha	53.692 ha (Private Land)	Preparation of the draft EIA on the basis of ToR granted in December 2017.	Nil



Name of Coal Block	Total Forest Land	Total Non-Forest Land	Status of EC	Status of FC
Parsa	841.538 ha	365.366 (Tenancy Land) 45.543 ha (Government Land)	Deferred twice by the EAC till certain studies are conducted in the area.	Deferred by the FAC till the decision of the Supreme Court in RRVUNL v. Sudiep Shrivastava.
PEKB	1898.328 ha	702.163 ha (Agricultural Land) 110.543 ha (Government Wasteland)	Capacity expansion from 10 MTPA to 15 MTPA granted in April 2018.	Granted in 2011.
Paturiya Gidmuri	1466.839 ha	285.081 ha	Considered for ToR on 27th September 2018.	Submitted by User Agency in July 2018.

Parts of the Hasdeo Arand form an elephant corridor, and despite the increasing incidents of human-elephant conflicts, the state government has refused to acknowledge the migratory route of this large mammal. They have instead characterised it as “stray movements”. Interestingly enough, the area had earlier been proposed for an elephant reserve, but had never actually been notified by the state government.

The repercussions of these decisions are being borne by the tribal and non-tribal people residing in and around the Hasdeo Arand. Since January 2018, there have been several incidents of human-elephant conflict in the region, which has resulted in both death and the destruction of property. If these proposals are granted, the conflict will only increase.



*Human-elephant conflict has increased since the starting of this year.*  
Representative image. Credit: awlw/pixabay

In addition to the forest area, the proposals require 1,562.388 ha of non-forest land as well. This includes grazing, agricultural and wastelands. Several villages would have to be displaced if the coal mines were to become operational. Moreover, mass deforestation and mining operations would impact the flow of the Hasdeo river, one of most important sources of irrigation in the northern part of Chhattisgarh. Thus, lives and livelihoods of several people will be affected as a result of mining operations in the Hasdeo Arand.

### **Inadequacies in EIA reports and lack of studies**

The need for conducting proper studies in the Hasdeo Arand had been realised in 2014. The National Green Tribunal (NGT), while hearing a petition filed by Sudiep Shrivastava on quashing the forest clearance given to the PEKB coal mine, highlighted the need to conduct studies in the area, especially regarding the biodiversity of the Hasdeo Aranya. Till 2017 however, no studies were conducted. It was only realised much later in 2017, when RRVUNL proposed granting clearance to expansion of PEKB mine and coal washery from 10 to 15 MTPA.

Recently, when the EAC considered and then reconsidered the Parsa OCM for environmental clearance, it made note of the fact that in



*The Hasdeo river, which is an important source of irrigation for many in Chhattisgarh, will also be impacted by the mining. Credit: Reuters*

addition to the impending studies on biodiversity, studies were also required on the cumulative impact of stream diversions. Moreover, it deferred the project with strict assurance of compliance, with regard to conducting of these studies. It is interesting to note here that EIA reports are being prepared in an area where information with regard to crucial ecological aspects are nonexistent.

### **Faulty gram sabhas**

In December 2014 and March 2015, a total of 18 villages unanimously passed gram sabha resolutions strongly opposing coal mining in Hasdeo Arand. They raised concerns regarding the loss of their forest-based livelihoods, displacement, pending forest right claims and damage to local water bodies as a result of mining operations. These 18 villages all fall within the demarcated coal field.

However, because of the huge push for these coal mines, the gram sabha process has been completely sidelined. The residents of Hariharpur, a village impacted by the Parsa coal mine, continue to protest that the gram sabha had not given the permission for the project. In fact, no gram sabha was held on the date when the

supposed permission was taken. The story remains the same for Ghatbharra and Salhi as well. A complaint had been filed with the district collector in June 2017 with regard to the faulty gram sabhas and more recently, complaints have been filed by the people of Salhi, Hariharpur and Fatehpur in August and September 2018.

Ironically, the EAC meeting minutes with regard to Parsa OCM reveals that the proponent is of the opinion that since Section 4 (i) of the Panchayat Extension to Schedule Areas (PESA) Act, 1996 had not been incorporated into the Chhattisgarh Panchayat Raj Act, 1993, there was no necessity to take the gram sabha's permission. If this had indeed been the case, one cannot help but wonder what the need was to have consulted with the gram sabhas. Such interpretations completely defeat the purpose of PESA Act and undermine the powers of the gram sabha.

## **Pending recognition of forest rights**

Although some forest right claims have been settled as per the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, a large number of them are yet to be recognised. There are also incidents wherein once recognised rights have been retracted. In Ghatbarra, for example, the district collector struck down the rights and the aggrieved villagers approached the Chhattisgarh high court to oppose this move. The claims now remain subject to judicial discretion.

In this region, a total 19 villages had claimed Community Forest Rights (CFRs) in 2013. Out of these, only seven in the Sarguja district had received their CFR titles in 2014. The 12 villages in the Korba district received their CFR titles only in 2016, following a long struggle. However, the titles were not free from encumbrances. The issues ranged from small quantum of area and exclusion of common property resources such as grazing lands or water bodies from the area demarcated in the titles. Despite these issues being brought up by the villagers, their redressal remains stuck at various administrative levels. With several hectares of forests coming up for diversion, it is pertinent that these rights are recognised before these proposals are even considered by the FAC or the EAC.



*The Parsa East Kante Basan coal block, for which forests and farm lands belonging to villagers were stripped bare. Credit: Chitragada Choudhary*

## Problematic public hearings

The EC process requires that a draft EIA report is prepared, in which the major environmental impacts and the measures to mitigate them are put together in a document. The draft then needs to be shared with the project affected people. The people are then given an opportunity to voice their opinions in a public hearing. Thus, it is clear that the public hearing process is crucial. Despite that, the public hearing conducted for Parsa OCM had serious flaws. The initial venue for the public hearing was Basen, a non-project affected village which was difficult for the people actually affected by the project to attend. As a result of objections raised, the public hearing was eventually held in two separate districts, as is mandated by the EIA Notification, 2006 when a project spans across two districts.

The hearing's minutes reflect that several voices in favour of the project did not provide any reason for their support and were also from areas which are not likely to be affected by the project. In addition, the voices were strangely in favour of Adani Private Ltd, which is not the project proponent. The few voices who were opposing the project spoke about the effect it would have on the

ecology of the area and on their livelihoods. With more projects applying for clearance and public hearings to follow, it is essential that the hearings are conducted in a fair and transparent manner. Otherwise, the whole exercise will be rendered moot.

Promises once made by the government seem forgotten now. With the increased interest in uprooting forests for coal in the Hasdeo Arand, one cannot help but wonder how much longer the forests of Hasdeo Arand remain safe from the impending threat of coal mining and what is to happen to the ecology of the region once the threat does in fact become a reality.

*This article was first published on [The Wire](#) news portal.*

# Environmental exemptions now allow for piecemeal expansions of coal mines

*Written by: Debayan Gupta and Kanchi Kohli*

*Dated: 25th August 2019*

The relaxations to facilitate mining are open challenges to both sustainability and inclusiveness.

If one goes by government records of coal extraction in India, a slowdown appears to be a far stretch with coal Coal India Limited (CIL) recording an all time highest production of coal in 2018-19.

The 606.89 million tonnes (MT) of coal extraction is for three of its subsidiaries: Northern Coalfields Limited (NCL), Mahanadi Coalfields Limited (MCL) and South Eastern Coalfields Limited (SECL). CIL appears to be all set to achieve the ambitious target 700 MT that it set for itself for 2019-2020.

In a 2012 Parliamentary Standing Committee Report on *Steps Taken by various Sectors of the Indian Economy to Control Pollution*, the Ministry of Coal (MoC) had pointed out that one of major constraints in meeting production targets was the result of slow processes of grant of environmental and forest clearances.

In 2013, the MoC had written to the Cabinet Committee on Investments (CCI) for streamlining the various clearances given by the Ministry of Environment, Forests and Climate Change (MoEFCC) to coal mining projects. Consequently, the MoC and the MoEFCC were asked to figure out a manner in which to reduce the time taken to give clearances for coal mining projects.

In this backdrop, it is not surprising that the MoEFCC has rolled out a series of amendments to the Environmental Impact Assessment (EIA) Notification relaxing the requirements for Environment Clearances (ECs) and public hearings related to coal mining projects in order to streamline and expedite the process of granting such clearances.

## Relaxations in the environmental appraisal system

Before initiating any on-ground activity related to coal extraction it is mandatory for the project proponent to apply for an EC as per the EIA Notification of 2006. Coal mines which are above 150 hectares are Category A projects, and appraised at the Central level by the Expert Appraisal Committee (EAC) of the MoEFCC and those below 150 hectares are Category B projects, and appraised at the State level by the State Expert Appraisal Committee (SEAC).

Based on the recommendations of the EAC or SEAC, a conditional approval letter is issued to projects along with a list of mandated environmental safeguards. The validity of these approvals is 30 years.

However, project proponents do not treat this as a one-time approval. More often than not, mine operators seek multiple approvals for expansion. This is to either to draw more coal from the same mine lease area or to bring additional land area under a mining project.

Both kinds of expansions have additional impacts on the land, air and water environment of the region, since a higher amount of coal is sought to be extracted. Dust pollution will increase as the



*The requirement of having a public hearing is of paramount importance in case of expansions since it shows how seriously the environmental safeguards have been adhered to. Photo: Reuters/Stringer*



extraction of more coal would require more excavation, blasting and transportation, thereby increasing the overall pollution load on the area. While approval letters list out safeguards to manage all of these, there is evidence to show that the compliance with these requirements is usually extremely low.

As per the EIA Notification of 2006, capacity expansions for all Category A coal mines were required to undergo the four-stage process prior to which an EC can be granted or rejected. This included the carrying out of detailed impact assessment studies, public consultations and an expert appraisal.

The requirement of having a public hearing is of paramount importance in case of expansions since it shows how seriously the environmental safeguards have been adhered to and also provides an opportunity to the affected population to raise any pending issues that have been unresolved or appeared afresh, such as the non-compliance that the mine may have done in the past.

However, in December 2012, a relaxation was made, whereby public hearings were exempted for those coal mining projects which were undergoing a capacity enhancement of up to 25% (OM No. J-11015/30/2004.IA.II (M) dated 19.12.2012).

The MoC however was not satisfied and claimed that a 25% increase for coal mines with capacities less than 8 MTPA was inadequate as it hardly led to any increase in the production capacity. Thus, in January 2014, the MoEFCC allowed those projects which were 8 MTPA or less to avail for exemption from public hearings if they were to undergo an expansion of up to 50% (OM No. J-11015/30/2004.IA.II (M) dated 07.01.2014).

Thereafter, in July 2014, the limit of 8 MTPA was increased to 16 MTPA (OM No. J-11015/30/2004.IA.II (M) dated 28.07.2014) and in September 2014, the same was increased to 20 MTPA (OM No. J-11015/30/2004.IA.II (M) dated 02.09.2014).

In 2015 the Ministry of Coal presented a proposal before the EAC to allow for a blanket exemption to the rule of having to conduct public hearings in cases where there was a capacity enhancement of up to 50%. In the 39th Meeting of the EAC on Coal Mining held



*Consultations with local communities before expansions has almost been rendered unnecessary. Photo: Reuters*

on 16th and 17th July 2015, the EAC was reluctant to allow for such blanket exemptions.

The EAC felt that the increase in production would affect the life of the mine and thereby affect livelihood of local communities and that the increase may also impact air quality, coal handling and transportation. According to the July 2017 meeting minutes of the EAC, in February 2017, during a meeting between the Secretary of the MoC and the MoEFCC, the MoC had again urged the MoEFCC to allow for the exemption from public hearings for 50% capacity enhancements. As a result, the proposal again made its way before the EAC in July 2017.

When the EAC met in July 2017, the EAC revised its stand and allowed for public hearings to be exempted for capacity enhancements up to 40%, but while considering such proposals, the due diligence of the EAC would be based on factors such as the satisfactory compliance of EC conditions, air quality within prescribed limits and no increase in the mine lease area. The effect of these relaxations are now being borne by communities living around mining districts in the country.

Coal mines are increasingly making use of the relaxation in order to expand in a piece-meal manner.

## Effects in Korba, Chhattisgarh

Korba, the power-hub of India, located in Chhattisgarh, is home to several large Open Cast Mines (OCM) operated by SECL. Of the various mines operated by SECL in Korba, three of them stand out in terms of their production capacity, size and the speed in which they have expanded over the last few years.

Since July 2017, Dipka OCM, Gevra OCM and Kusmunda OCM have been granted one-year long approvals and each time, they have come back to seek an expansion even before the one-year long approval came to an end.

The expansion stories for all three mines are quite similar. Kusmunda OCM had originally applied for an expansion from 15 MTPA to 50 MTPA. The proposal had first come up in June 2015, but the EAC had deferred the proposal for want of additional information with respect to several issues raised in the public hearing and in representations sent in by NGOs.

Thereafter, the proposal came up before the EAC in July, August, October and November 2015. Each time, the proposal was deferred for want of additional studies on the impacts on air and water in the area.

Finally, when it came before the EAC in January 2016, based on the studies which had been required to be conducted, the EAC felt that the pollution control measures in place was adequate to allow for an expansion to 26 MTPA.

Thereafter, in February 2018 with the relaxation of July 2017 allowing for exemptions from public hearings for expansions up to 40% in place, a capacity expansion for Kusmunda from 26 MTPA to 50 MTPA came up before the EAC. Although the expansion sought for was more than 40%, which would require for a public hearing to take place, the EAC recommended that an expansion of up to 36 MTPA can be allowed.

Although the EAC “expressed its deep concern over the prevailing environmental settings and the status of statutory compliances” the clearance was allowed since there was a “pressing demand

for the grant of environmental clearance to expansion project in national interest”.

The clearance given in February 2018 was valid only for a year however only for a year since it had been found that the compliance status of the EC conditions were far from satisfactory. Even before the validity of the EC expired, another expansion was sought by SECL for Kusmunda OCM. In October 2018, when the EAC deliberated on the matter, it noted that the project was still not in compliance with EC conditions and the matter was deferred. The EAC thus asked the RO to conduct another site inspection in December 2018, based on which a decision on the continuation of the EC would be made. The application was listed before the EAC again on 13th and 14th December 2018. Although the EAC was still not satisfied with the compliance of EC conditions, an expansion to 40 MTPA was allowed, again for a period of one year, for the same reason of non-compliance as before.

As the trend has been for the last few years, six months into being granted a capacity enhancement, SECL has again come forward with a proposal to expand Kusmunda OCM from 40 MTPA to 50 MTPA, which was heard in the EAC meeting on June 25th 2019.

Dipka and Gevra too have similarly increased their capacity in a piecemeal manner and are currently at 35 MTPA and 45 MTPA respectively. Along with Kusmunda, both Dipka and Gevra were on the agenda for the EAC meeting on June 25.

This time the EAC has deferred all three proposals. While Kusmunda was deferred for non-compliance with the earlier granted clearances, the ToR for Dipka was denied on technical grounds.

For Gevra though, the EAC was unable to find any rationale behind allowing for the expansion, particularly in light of the fact that the last public hearing had taken place almost 10 years ago and compliance status with earlier granted clearances was also quite poor.

Therefore, the EAC desired for the issuance of “a public notice through the State Pollution Control Board for information of stakeholders about the proposed expansion inviting comments”.

**Table: Expansions carried out in OC Mines in Korba without conducting public hearings**

Mine	Date of Last Public Hearing	Expansions since last PH
Dipka	05.09.2008	25 MTPA – 30 MTPA on 12.02.2013
		30 MTPA – 31 MTPA on 06.02.2015
		31 MTPA – 35 MTPA on 20.02.2018
Gevra	22.08.2008	35 MTPA – 40 MTPA on 31.01.2014
		40 MTPA – 41 MTPA on 06.02.2015
		41 MTPA – 45 MTPA on 21.02.2018
Kusmunda	11.02.2015	26 MTPA – 36 MTPA on 03.06.2018
		36 MTPA – 40 MTPA on 22.01.2019

## Exclusionary and unsustainable development

A 2012 study commissioned by the Planning Commission had found that local consultations is a highly neglected subject in the mining industry. It went on to recommend that local stakeholders should be included at every stage of mining operations and not just at the commencement of the same.

Seven years since, the requirement for these consultations has only been further reduced. The relaxations which have been put in place for coal mines, act as a double edged blow to the whole appraisal process since it removes the requirement to carry out an EIA study and does not record any objections which the local communities might be facing as a result of mining operations.

A public hearing allows the affected people to have prior information about the project and take a meaningful decision regarding it. This is rooted in the principle of natural justice which necessitates the hearing of both sides before coming to a decision.

More so, development in today's day and age is spoken in terms of sustainability and inclusiveness, both of which are absent in the relaxations put in place for coal mine expansions.

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The Centre for Policy Research-Namati Environmental Justice Program trains and supports a network of community paralegals or grassroots legal advocates who work with communities affected by pollution, water contamination and other environmental challenges. They use the legal empowerment approach to make communities aware of laws and regulations that can help secure much needed remedies for these problems that often arise out of non-compliance or violation of environmental regulations.

As part of their work, the community paralegals write about their cases to create public awareness on the use of law outside of courts as well as engage the readers in these issues. This is an updated collection of published stories written by paralegals and their team members working in coastal Gujarat, Northern Karnataka, Chhattisgarh and Keonjhar, Odisha. Each story chronicles the focussed efforts and creative strategies undertaken by the paralegals and affected communities to close the legal enforcement gap and seek remedies for environmental impacts.



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