



# Making the law count



Ten environment justice stories  
by community paralegals in India

**March 2018**

**Citation:** Centre for Policy Research (CPR)-Namati Environmental Justice Program (2018). Making the Law Count: Ten Environment Justice Stories by Community Paralegals in India. India: CPR-Namati Environmental Justice Program

This work has been carried out with the aid of a grant from the International Development Research Centre, Ottawa, Canada

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**Design and Print:** PRINTFORCE

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## Abbreviations

BOD	Biological Oxygen Demand
CETP	Common Effluent Treatment Plant
COD	Chemical Oxygen Demand
CPR	Centre for Policy Research
CRZ	Coastal Regulation Zone
CTO	Consent to Operate
CZMP	Coastal Zone Management Plan
DC	District Commissioner
DLCC	District Level Coastal Committee
DMO	District Municipal Officer
EJ	Environmental Justice
EO	Executive Officer
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
MoEFCC	Ministry of Environment, Forests and Climate Change
MSW	Municipal Solid Waste
NH	Nayak Hospitalities
PCB	Pollution Control Board
PDO	Panchayat Development Officer
RTI	Right to Information
SCZMA	State Coastal Zone Management Authority
SEIAA	State Environment Impact Assessment Authority
SMS	Smoke Management System
SSI	Small Scale Industries
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 barefoot advocates, also called as "Enviro-legal Coordinators", about the cases they have worked on with affected communities. These stories chronicle their conviction that putting law in the hands of ordinary people can shift the balance of power in support of justice. They also show that it takes 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 Mahadevbhai 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.



**Harapriya Nayak** has been working as an environmental justice champion for over a year. Living in a heavily mined district, Harpriya 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.



**Manisha Goswami** has been fighting for environmental justice for over a decade. She started this work as a personal cause, but her passion for this work grew over time. She says "When I see the resilience of affected communities who are fighting against environmental problems, I feel motivated to fight with them for their cause". Working in one of the most critically polluted areas in the country, Manisha has to deal with a complex and resistant bureaucracy. However, her tenacity makes her a formidable advocate of environment justice. A young mother of two, she loves designing clothes for her kids and cooks delicious food for her friends and family.



**Santosh Dora** joined CPR-Namati Environmental Justice Program 2 years ago. He has worked with tribal communities for their livelihood, natural resource management, forest rights, 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.

**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.

## Saving Sangam from Mining

Vijay Rathod, 19<sup>th</sup> 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.*

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.

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?



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



*The River bed now. Pic. Vijay Rathod*

### 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.](#)

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

Vimal Kalavadiya, 22<sup>nd</sup> 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 live 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 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.



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

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.



A view of the bund built on the inter-tidal area. Photograph courtesy Kanchi Kohli

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 was first published on my Law ([www.mylaw.net](http://www.mylaw.net)), 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

Vinod Patgar, 17<sup>th</sup> 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 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.



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

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



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

will sell my land now for a negotiable price." I am intrigued, and ask why this sudden worry and alarm about CRZ.

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 schemes had lapsed because



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

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 Uttara 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](http://Oorvani.Foundation) - community-funded media for the new India.*

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

Vinod Patgar, 8<sup>th</sup> 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.

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.



Satellite image of the Nayak Hospitalities compound



Nayak Hospitalities compound area

### 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 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.

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,



Site Inspection by Regional Director

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 complaint. 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 Gudeangadi 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 was first published on my Law ([www.mylaw.net](http://www.mylaw.net)), where students and professionals can self-learn legal research, legal writing, drafting, and human rights law.*

## In Vapi, can decades of damage be finally turned around?

Bharat Patel and Manisha Goswami, 8<sup>th</sup> October 2015

Rapid industrial growth brought wealth but also unchecked pollution to the town of Vapi. It impacted the local fishing communities by destroying their livelihoods. Manisha Goswami and Bharat Patel report on the decades of damage caused by the chemical industries in the area.

Vapi is a well-known industrial town located in Valsad district in the western part of India in the state of Gujarat. It forms a part of an industrial belt running from Vapi at the southern end of Gujarat to Mahesana (about 270 miles north) which has come to be known as the "Golden Corridor of India" for the wealth it has generated for industrialists.

An approximately 21 km-stretch around Vapi is dotted with numerous small scale chemical industries and is considered the longest chemical industrial corridor in Asia.

However, over the years the area has also earned the reputation of being one of the most polluted industrial stretches in the continent, with both air and water being deeply contaminated. This has earned it another fitting epithet, 'the armpit of India'.

Vapi is perhaps one of the few municipalities in the country which has two rivers flowing through its limits carrying the industrial effluents. While, the river Kolak flows on the northern end, river Daman Ganga borders the southern end of this industrial town before it meets the sea. There is a large population, estimated to be over 5000, which is dependent on both these rivers and its estuaries for fishing. ([Reference STATISTICAL DIARY year 2012-13](#)).



The polluted river Daman Ganga in Vapi. Pic: Bharat Patel

## Water contamination and a Common Effluent Treatment Plant (CETP)

During 1967-1968, the Gujarat Industrial Development Corporation (GIDC) was established in Vapi. As per the four phase-plan, approximately 1140 hectares of land was developed. This included residential areas and infrastructure facilities for around 1500 industries. Of these, around 70 percent of the industries produced a variety of chemicals like dyes, pigment, pesticides, and pharmaceuticals. The remaining 30 percent comprised of paper-mills, plastic, packaging, engineering and other small scale industries. In 1971, the [Vapi Industrial Association](#) was formed.

However, it was only in the year 1997 that the Vapi Industrial Association established the Common Effluent Treatment Plant (CETP). The Gujarat government had appointed a special High Power Committee (HPC) in 1993 to examine the efforts towards industrialisation in Vapi. This committee recommended a suitable policy to deal with environment protection on one hand and safeguard the existence of the Small Scale Industries (SSI) sector on the other.

The committee had concluded that the only viable option under the circumstances was to have a CETP to manage the pollution and environmental damage being caused by industrial effluents.

By the time the CETP was sanctioned and set up, there were clear reports of both groundwater and surface water being heavily contaminated. The pollution of Daman Ganga and Kolak rivers, including their feeder nallahs (streams) was at the heart of the problem. In fact in 1989, Vapi was formally [categorised](#) as one of the 'Critically Polluted Areas' of India by the Central Pollution Control Board (CPCB).

In 1995, there was a case filed in Supreme Court by Research Foundation, a NGO, against the Union of India(writ petition(civil) No. 657 of 1995) over water contamination issues in Gujarat and Madhya Pradesh, which is still pending. The SC set up a monitoring committee following the petition and asked it to file a report before the court.



Indiscriminate dumping of hazardous waste has polluted the river Daman Ganga in Vapi. Pic: Bharat Patel

In the affidavit filed in this case between February and April 2004, Dr. N H Hosabettu, erstwhile Director MoEF and member secretary of the monitoring committee, clearly stated: "1.5 As stated above, pursuant to directions of the Hon'ble Court and the Constitution of the Committee, the Committee or its Sub-Committee have visited different areas in country to evaluate the ground realities in so far as hazardous waste management is concerned. The Committee has found in some of these areas that the indiscriminate dumping of hazardous waste due to non-existent or negligent practices together with lack of enforcement by authorities has affected the groundwater and drinking water supplies have consequently been damaged. Site inspections at industrial estates of Vapi, Ankleshwar, and Vadodara in the State of Gujarat and Union Carbide plant in Bhopal, Madhya Pradesh (MP), have revealed that the dumping of hazardous waste or their neglect has resulted in total unavailability of ground water supplies."

The affidavit observed that not much had changed since the HPC's earlier recommendations to the court in 2001 and that it was important for the court to direct the state governments of MP and Gujarat to immediately step in and supply fresh water in tankers or in pipes for drinking and agricultural purposes. It also laid out other recommendations for action to be taken to improve the groundwater situation and water supply for the affected communities.

The court also made an important observation that "the report records that due to indiscriminate dumping of hazardous waste due to non-existent or negligent practices together with lack of enforcement by authorities the groundwater and therefore drinking water supplies have been affected/damaged."

However, neither the recommendations of the HPC nor the judgment dealt with the impacts on fishing or the contamination of the rivers. With no legal or regulatory action on this issue, the situation on the ground has only deteriorated. The Daman Ganga river continues to be highly polluted and pollution is also evident in the nearby coastal seawater. At one point of time there were around 1000 fishing boats but by the year 2011, there were only around 100 fishing boats in this region. The fall in fishing boats is due to the heavy pollution in the coastal area of Vapi.

### The case for environmental compliance

The fishing community affected by the problem has been writing to various authorities and politicians since 2001. They claim that this has not led to any action or remedy. One of the authors of this article, Manisha Goswami has been working with representatives of the fishing community since 2011 and supporting the affected people in an adhoc manner, as and when it was possible.

In 2012-13, she joined the CPR-NAMATI Environment Justice program and adopted an evidence-based legal empowerment approach to seek remedies for the river pollution and fish contamination problems in both Kolak and Daman Ganga rivers. One of the first efforts of this approach was to understand whether the impacts that have occurred are because of legally permitted activities or due to non compliance of law or a condition in the regulatory approval.

An issue which came to light during this exercise was that the CETP Vapi had received consent to operate on 20 March 2014 from the Gujarat Pollution Control Board. One of the conditions of this consent, (consent condition number 3.3.2) was that the CETP inlet should have a Chemical Oxygen Demand (COD) level of 1000 mg/L and Biological Oxygen Demand (BOD) level of 400 mg/L.

The table below presents a comparison of data pertaining to the last 5 years as published by the GPCB. Increased levels of COD and BOD adversely affect the river ecosystem, especially the fish life cycle, growth and food chain.

This impact has been published in a research paper published by the National Council for Stream Improvement as well as the American International Journal of Research in Formal Applied and Natural Sciences. The [paper](#) by Priyanka Sharma and Dr Sujata Gupta related to the amount of oxygen (BOD, COD) in water and their effect on fish.

### CETP Inlet and outlet Data (Annual avg)

Year	Inlet		Outlet		Status as per consent condition 3.3.2	
	COD mg/L	BOD mg/L	COD mg/L	BOD mg/L	COD mg/L	BOD mg/L
2009	1408	369	709	195	250	30
2010	1497	355	474	103	250	30
2011	1112	324	509	132	250	30
2012	1099	306	385.5	107.2	250	30
2013	1032	381	419	135	250	30

It is evident from above data that the consent condition 3.3.2 has been continuously violated for the last five years as the figures are way above the designated requirements as per the Consent to Operate issued by the GPCB. Also, due to increased COD and BOD level in the river water, as evident from the inlet and outlet data, the fishermen living along the banks of the river Daman and Kolak are unable to sustain their livelihoods.

The authors and the affected community also found out that on 1 April 2014, the National Green Tribunal (Western Zone Bench) recorded in its case no. 34/2014 – [Tarun Patel vs Gujarat Pollution Control Board (GPCB), petition judgement para no. 4] – that the effluents released from CETP are beyond the consent condition limits. Moreover, despite the Ministry of Environment and Forests (MoEF), Government of India declaring Vapi as a 'Critical Polluted Area', there has been no improvement in terms of effluents released from the CETP.

Other than the above legal requirements, the Vapi action plan of the GPCB states that the treated effluent from the CETP must be discharged in the deep sea through a pipeline, and not in Daman Ganga river, as has been



CETP effluent discharge point at river Daman Ganga, Vapi. Pic: Bharat Patel

done. The discharge pipeline was to have been installed by 31 December 2012, which has not been done.

While the impact of pollution on Vapi has been a public issue from the beginning, it is only now that there is clear legal evidence for violations and non-compliance available with the citizens of Vapi. The open discharge of effluent into the river has continued unabated, destroying its biodiversity and ecosystem, including in the nearby coastal waters.

### The complaint and its impact

It took eight Right to Information (RTI) applications to gather the required evidence and information, following which the fishing community from Daman Ganga submitted two detailed letters to the Gujarat Pollution Control Board (GPCB) in Gandhinagar.

In one of the RTI responses dated 28 October 2014, the GPCB informed the applicants that the consent to operate was given based on treatment measures of the effluent waters and the last consent was given by the GPCB as of 20-03-2014.

However, the responsible authority did not take any action upon receiving the two letters from the fishing community. After waiting for almost five months, the affected community sent yet another complaint to the GPCB on 7 March 2015, reiterating their points and sharing updated evidence.

Following up on the complaints and submissions, the Gujarat Pollution Control Board (GPCB) brought around 53 red category industries under its Continuous Amazon Online Monitoring System. These industries were issued instructions along with a closure notice on 27 March 2015, to "install online effluent quality monitoring system at the outlet of effluent treatment for the measurement of the applicable parameters not later than May 31, 2015." This is applicable to those industries whose inlet pipes discharge more than permissible levels of COD and BOD.

The industries which were directed to install the online monitoring metres were asked to report to GPCB and integrate with the online monitoring system set up by the Board. They were directed to submit a 100 percent bank guarantee and close down their industries for 15 days upon receipt of closure notice. The 15 days period was to get a response from the defaulting units while the online meter had to be installed by 31 May 2015.

Besides this, on 5 May 2014 and 3 December 2014, due to similar reasons, the Regional Office of the GPCB issued a closure notice and a notice from the Collector to those industrial units which did not follow the conditions stipulated under the consent to operate. The consent to operate clauses explicitly state that in case there is a violation of any of its conditions, the consent to operate licence can be terminated by the Board or any concerned authority.

One of the biggest implications of the issuance of the 53 closure notices is that the problem of pollution and water contamination in Vapi has now been officially acknowledged to be the result of legal violation. The acknowledgment of the problem by a regulatory authority such as the GPCB can go a long way in forging a process through which a solution can emerge. This is an immensely significant step towards resolving the decades-old problems of an area such as Vapi.

However, the problem is far from remedied, and will require constant public monitoring and intimation to the authorities so that timely action can be taken.

But while doing so, we must also reflect on the question of the past and the future. Where does the liability really lie? Who is responsible for all fishing livelihoods lost due to an illegality and disregard of law? Even as the efforts towards legal empowerment can achieve an important step ahead for the people dependent on the Daman Ganga river, how can these situations be prevented?

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

## Residents using rule of law to secure justice

Hasmukh Dhumadiya, 31<sup>st</sup> 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 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.



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

## 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 Dhumadiya

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."



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

## 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.

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.

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



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

Jayendrasinh Ker, 25<sup>th</sup> 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 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 Somnath Bauxite Plant

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.

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.



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

## 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 was first published on myLaw ([www.mylaw.net](http://www.mylaw.net)), where students and professionals can self-learn legal research, legal writing, drafting, and human rights law.*

## More money for more dust

*Harapriya Nayak and Santosh Dora, 18<sup>th</sup> 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 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.



*Dust generated in transportation of minerals to Railway siding at Nayagarh, Odisha. Pic: Harapriya Nayak*

## 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.



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

## 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.

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.

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



Family of Durga Majhi. Pic: Harapriya Nayak

### 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.

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.



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



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

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 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](http://Oorvani Foundation) - community-funded media for the new India.*

## Residents of a municipal dumping site fight back

Vimal Kalavadiya and Shvetangini Patel, 21<sup>st</sup> 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.

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?



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

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."

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.



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

## 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.

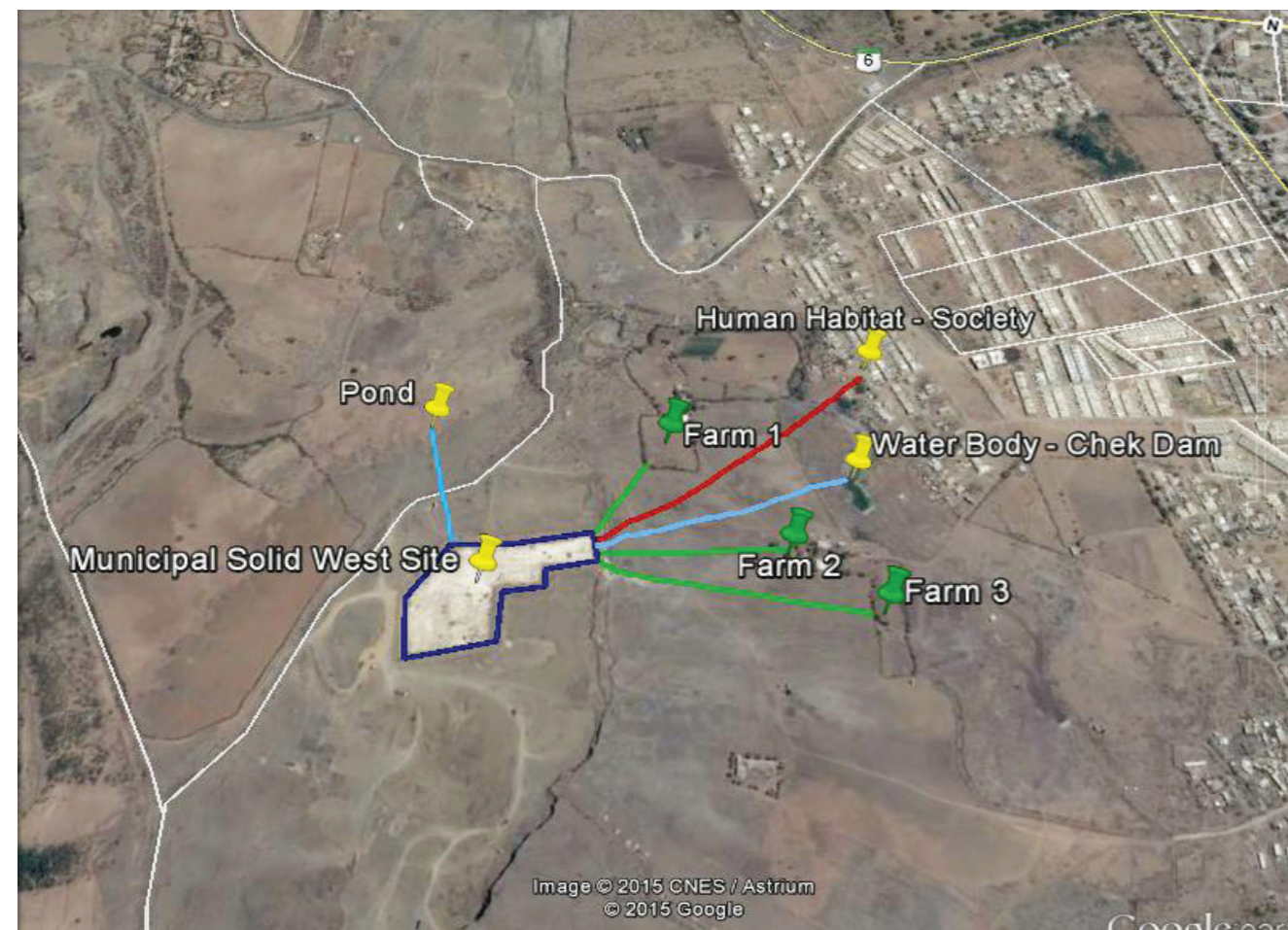
That in turn would help them gauge the likely place or authority from whom they might get a response. For example, if the Gandhidham municipality was found to be a violator, approaching them would perhaps not be the best idea, they thought. As when they approached the municipality earlier, it will not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



The dump site map. Pic: Shvetangini Patel

- 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.



Cattle roaming in the dump site. Pic: Shvetangini Patel

## 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 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.

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

## Holding a Municipality Accountable

*Hasmukh Dhumadiya, 31<sup>st</sup> 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.

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.



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

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 20<sup>th</sup> 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 as per the 2000 Rules, an authorization needs to be taken from the GPCB. The letter was dated 25<sup>th</sup> 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 18<sup>th</sup> 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 28<sup>th</sup> 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 18<sup>th</sup> July 2016 the villagers complained to District municipal officer (DMO). It took a month, but on 24<sup>th</sup> 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.





*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*

### **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.

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 21<sup>st</sup> 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?

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

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

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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.

[www.namati.org](http://www.namati.org)

The Centre for Policy Research-Namati Environmental Justice Program trains and supports a network of community paralegals or grassroots legal professionals 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 a collection of published stories written by paralegals working in coastal Gujarat, North Karnataka 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.

