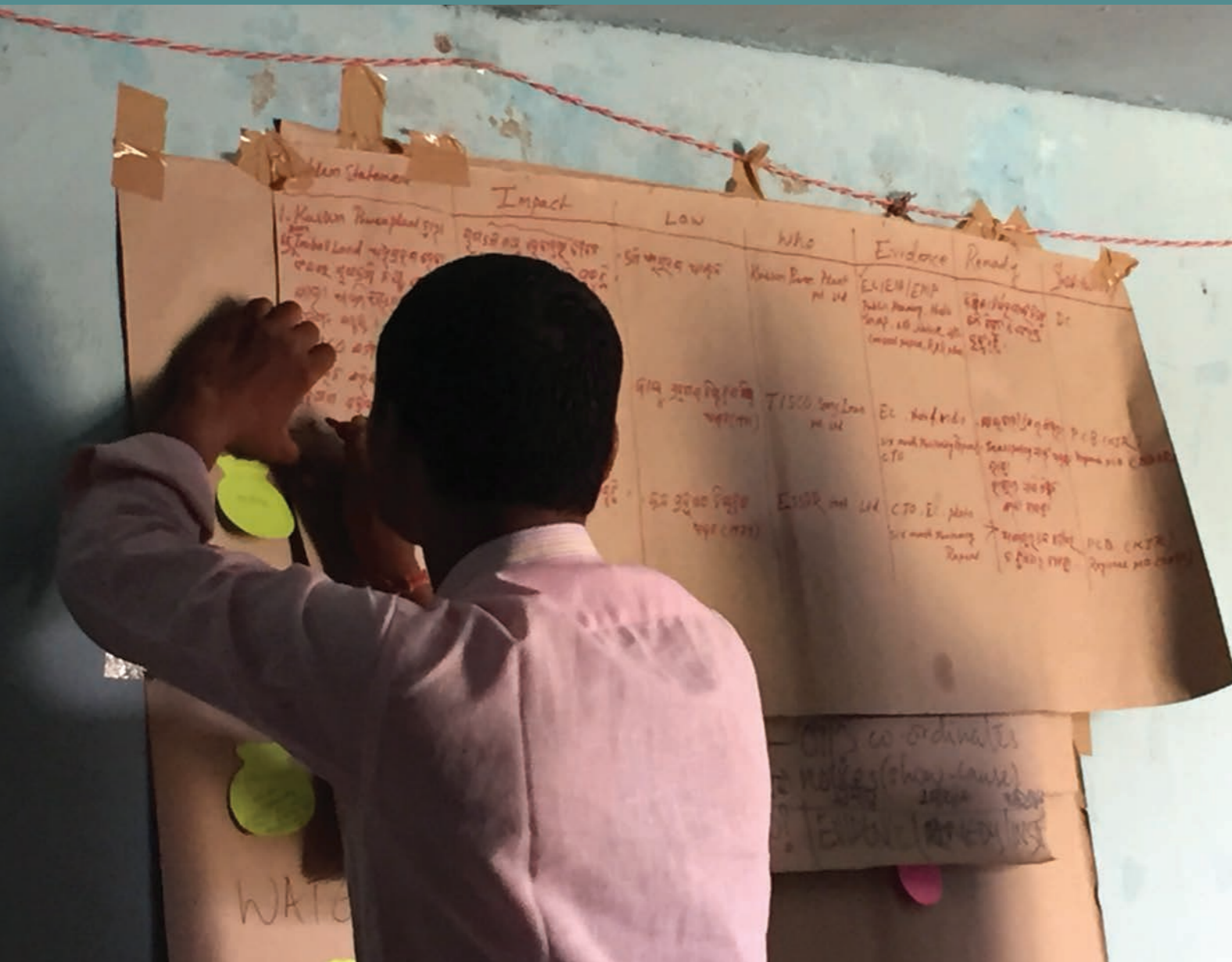


paralegals for environmental justice

version 2.0



The Centre for Policy Research (CPR)-Namati Environmental Justice Program

CPR-Namati's Environmental Justice Program is an effort towards closing the environment regulation enforcement gap. The Program is presently operational in India, a country with robust laws but a very poor record of compliance with environmental regulations. Violations of, and non-compliance with these laws have real and profound effects on the environment, the lives of people directly dependent on it for their livelihoods, as well as the health of all citizens. The Program pursues remedies for environmental impacts by bringing cases of non-compliance to the attention of the concerned government agencies and institutions. It also aggregates the data from these cases to track the status of compliance with environmental laws. This data is used to advocate for improvements in environmental law, policy and institutions.

The objectives of the program

1. Improved environmental compliance
2. Effective remedies for affected communities
3. Robust institutional support for the conservation of critical ecosystems

Paralegal training in Keonjhar, Orissa

December 2017

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abbreviations

CPR: Centre for Policy Research

CRZ: Coastal Regulation Zone

EIA: Environment Impact Assessment

FAQ: Frequently Asked Questions

GPS: Global Positioning System

NDZ: No Development Zone

NGO: Non Governmental Organisation

RTI: Right to Information



part 1

who is a community paralegal?

A community paralegal, also known as a grassroots legal advocate or a barefoot lawyer, is a community resource person and mobiliser, trained in basic law and legal procedures and in skills like mediation, negotiation, education, and advocacy.

Paralegals combine their knowledge of the law, range of skills and understanding of local contexts to help resolve justice problems by empowering affected communities in the use of law. They help communities gather and present evidence of injustice and appeal to the institutions accountable to citizens within existing law. They focus on prompt local administrative actions rather than slow, distant and expensive litigation. They serve as a 'frontline' of justice services to affected communities– they are an accessible, affordable, and speedy way to achieve justice.

With their focus on institutions of the government, paralegals also help to engage large bureaucracies in solving citizens' problems in creative and timely ways. By building the collaboration between affected people and the government in designing remedies, paralegals bring out the full benefits of public participation in governance. Their focus on building regulatory and legal institutions also ensures systemic and lasting change towards justice.

Paralegals may take a holistic approach, addressing a range of justice needs, or focus on a specific issue, such as domestic violence or access to government welfare benefits. Paralegals can work in offices designated solely for their use or can be hosted in the offices of service-oriented organisations, such as those focussed on legal aid, agricultural assistance or microfinance.

Advantages of community paralegals

Community paralegals can engage administrative agencies and institutions in implementing laws meant to protect civic, environmental, social and economic rights. Some key advantages of a model of justice services that includes community-based paralegals are the following:

victims become change agents

It increases legal awareness of affected communities and their ability to influence decisions that affect their lives.

solutions for communities

It can find solutions not only for individuals, but also for entire affected communities.

timely legal solutions

It can solve legal problems faster than formal courts by the use of non antagonistic strategies and creative remedies.

cost-effective solutions

It can be more cost-effective and accessible than conventional justice services.

crucial link

It acts as a link between affected communities and formal/informal institutions, and other service providers such as lawyers.

shape community perspective

It can shape/reshape communities' perspective towards laws and help create public goodwill for them.



part 2

what do community paralegals for environmental justice do?

Environmental justice is defined as the fair treatment and meaningful involvement of all people, irrespective of differences in the development, implementation and enforcement of environmental laws, regulation and policy. It also includes other laws that influence or can influence environmental, health and livelihood conditions.

Environmental justice is concerned not only with environmental protection and conservation, but more importantly with the distribution of conservation benefits and the burdens of pollution or other environmental problems. When these benefits or burdens are distributed unequally, some groups of people are made more vulnerable than others. Their lives are less valued than those of others and they are considered more expendable by society.

Community paralegals focussed on environmental justice support communities that are burdened by environmental problems or those who bear the costs of decisions that lead to environmental impacts. They assist such affected communities to understand, use, and shape environmental regulation to reduce environmental impacts, improve their living and working conditions, as well as protect their livelihoods. In industrialised regions, "these paralegals and the communities they work with, hold governments and companies accountable to rule of law, environmental protection and social justice. Environmental justice paralegals help communities to know, use and shape law.



Paralegals, Community Partners and Legal Researcher discussing a case, Gujarat

Know law

Paralegals train communities in the use of environmental laws and regulatory processes. This is with the understanding that communities that know environmental laws and constitutional remedies will be able to exercise their right to clean air, water, food, work and life. They are also able to exercise their right to participate in decision-making processes of the government on projects involving land use change and extraction of natural resources. Apart from exercising their rights, they can find creative ways to hold the government and other parties, such as companies, accountable to their obligations and commitments towards environmental protection and social justice.

Use law

Paralegals upon receiving complaints from community members or individual families (referred to as community partners or clients) about impacts on forests, farmlands, water sources or fishing grounds, investigate their links to non-compliance with, or violations of environmental and other relevant regulations. These are brought to the attention of concerned government agencies and institutions meant to protect the environment or that have administrative jurisdiction related to social welfare and justice. By activating legal procedures for enforcement and seeking effective remedies, they not only bring local communities and governments closer, but also bring those laws to life that help to protect the environment, affected communities and their livelihoods.

know
use
shape
law



Paralegals studying laws for their cases, Myanmar

Shape law

The case-work done by paralegals and affected communities is tracked and analysed carefully. The data from the cases is aggregated and used to seek evidence-based improvements in laws, policies, procedures and institutional structures. In situations where no laws exist to resolve or remedy impacts caused by certain types of activities, the data from relevant cases is used to suggest or recommend the drafting of new laws and guidelines. In this objective, paralegals play the role of researchers by collecting data to develop administrative and environmental laws to deal with challenges faced by affected communities.

Case data is used to generate evidence-based proposals for systemic change in laws and institutional practice. Support teams are employed to manage the database of cases and provide regular reports and feedback to the paralegals on their case-work, document their experiences, and provide legal research support and other help needed. Community partners, paralegals and the support teams together draft policy statements based on their experiences and data collected and they engage in advocacy for better policies/implementation mechanisms.



Open pile of bauxite causing air pollution in Okha, Gujarat

mineral handling guidelines in gujarat

The coastline of the western Indian state of Gujarat has several ports approved by the Pollution Control Board that handle a range of minerals including coal, bauxite and limestone. Communities living around these sites have been complaining that dust from the mineral handling affects their living conditions, health and farms. When a community paralegal worked with the affected people to understand if approval letters for mineral handling ports had any conditions that were being violated, they realised that the consent letter had safeguards only for coal handling. All other minerals that were stored and transported from these facilities were not covered or regulated by the measures for controlling dust pollution. There were at least 10 such ports where the above issue was identified by paralegals and their clients. While the state government had guidelines for coal handling, the other minerals had been missed out at the policy level, as well as in project level approvals. Based on this evidence collected by the paralegals and community partners, a submission was made to the state government to review all the consent letters for ports to address these lacunae. A separate letter was sent requesting the government to formalise Mineral Handling Guidelines for storage, handling and transportation of all minerals across different kinds of operations in the state, including ports, industries and power plants. Both these submissions used the case level evidence and invoked legal clauses, which give the government the authority to issue new policies. They also drew from research in scientific papers to draft specific recommendations. See Annexure1 for letter submitted to State Pollution Control Board.

from cases to policy



Newsreport of members of Aghanashini Bivalve Collectors Group submitting a memorandum to the District Collector Karwar, seeking their inclusion in fisheries schemes, Karnataka.



In Uttara Kannada, Karnataka, paralegals assisted communities dependent on the ecologically fragile and economically productive landscape to understand the legal violations involved in the government's approval of a port project in the region.



In Vapi, Gujarat, paralegals work with affected local residents to seek remedies and implement the state approved Action Plan to combat the chronic pollution from chemical industries.



part 3

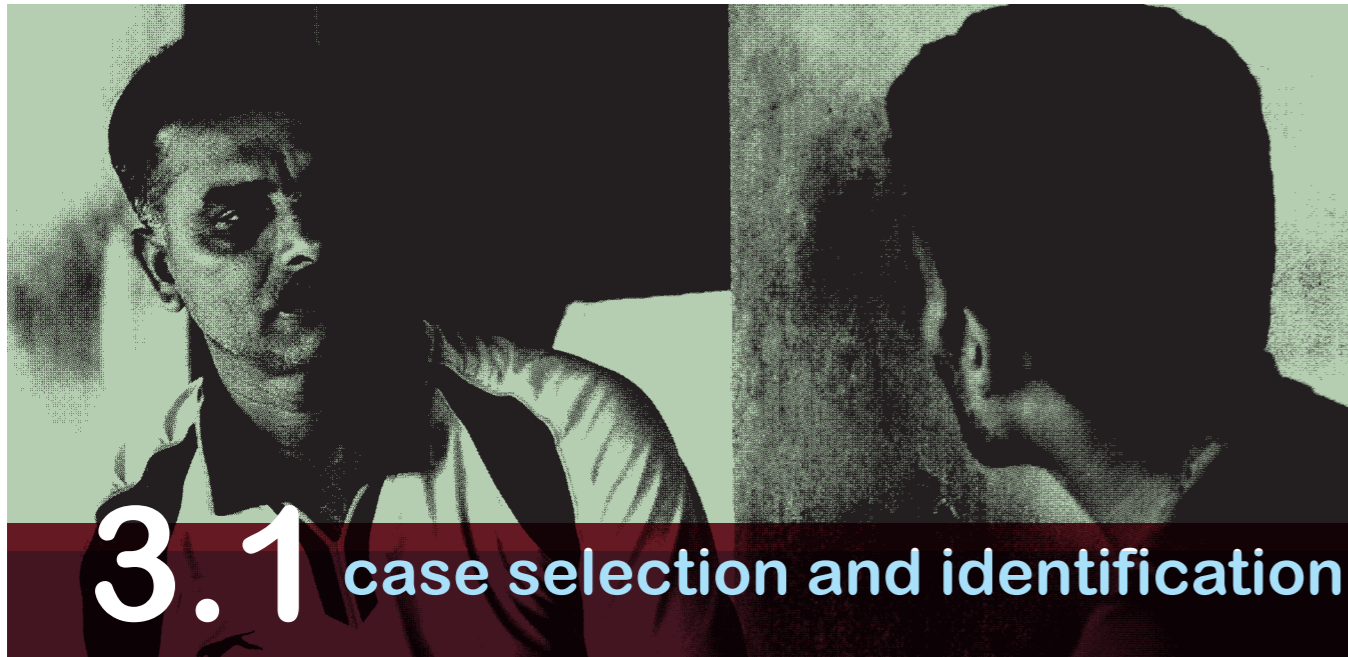
how do paralegals solve environmental justice cases?

People affected by an environmental justice problem bring these cases to the paralegal. The paralegal helps to resolve them by using her/his legal knowledge and knowledge of institutions which can provide remedies. The paralegal also guides the affected people to approach the institutions with relevant evidence and creative and legally acceptable solutions.

Solving cases involves four essential tasks. These may also be seen as steps in a process, except for case documentation which is carried out throughout the process.

CASE

1. selection and identification
2. documentation
3. analysis and action
4. reporting and monitoring



Identifying affected people and active clients/community partners

Getting to know the problem

A case is usually brought to the paralegal by a group of people or an individual affected by a problem. Based on their description of the problem, the paralegal probes further to draw information that helps him/her identify the underlying issues and causes of the problem stated. The paralegal reads official documents, news reports and other available material that may be related to the problem.

Identifying affected people

The paralegal makes field visits to the site of the problem and assesses the various constituencies affected by the problem. For this, the paralegal has discussions with different groups of people in the area such as women, youth, members of different castes, indigenous or tribal groups and different livelihood groups such as fishermen, farmers and forest dwellers. This helps the paralegal understand the problem from various points of view.

Estimating the impacts

The paralegal estimates the total number of affected people or beneficiaries who will stand to gain if the problem is resolved. These calculations are complex. For example, river pollution potentially affects the entire population downstream from the source. It is useful to generate a rough estimate of these numbers. This is crucial especially if cases involve remedies at the individual or family level such as compensations for pollution impacts. In some cases, these numbers can also be separated as those directly affected and those indirectly affected, those already affected, those potentially affected and those likely to be affected.

Mobilising active clients/community partners

The paralegal speaks to all the affected parties and identifies who all among them is willing to actively work with the paralegal in solving the case. This group is identified as the community partner or client group. It is best to have a partner or group that represents the diversity of people affected by the problem, especially women, caste/community groups and livelihood groups.

3.1 case selection and identification

Cases are brought to the paralegals by affected people. In some situations, cases are also selected by the paralegals who are familiar with the region.

The prioritising of cases to work on can be done only by identifying what each case is about. Environmental justice cases are typically complex with multiple causes and sources of impact, covering a wide area or large number of affected people, and have varying impacts across communities and over time. They are not easy to understand or work on, unless the paralegal is thorough in collecting information that helps to identify the case well. At least three steps are involved in identifying a case.

- 1 Identifying the groups of people affected and the varied impacts they face
- 2 Gathering information on past efforts by those affected to resolve these impacts
- 3 Framing the problem statement of the case by identifying a legal hook and attribution or source/cause of the problem

garbage dumping in kumta

Garbage dump in Kumta, Karnataka



identifying affected people and community partners

The **Municipal Corporation** of Kumta town in north Karnataka in India has been dumping garbage collected from the municipality at the top of Muroor hill. Three villages are located very close to the hill and about 50 families from these villages live with the stench from the dump. The garbage from the dump is carried by the wind and streams flowing nearby to their villages. If the problem is not contained, the garbage load will continue to increase and may potentially affect 200 families from more villages. In the monsoon the water from this garbage dump reaches all the wells located downhill. 30 people from the three villages closest to the dump, with a community paralegal, tried to get the Municipal Corporation to stop dumping waste on the hill and also find long-term solutions to garbage disposal in rural areas of the region. **The community partner** in the case is the group of 30 affected people who worked with the paralegal to get the Municipal Corporation to stop garbage dumping. **The people affected** are the 50 families who live very close to the hill and the 200 families from other villages who would be affected in future if the problem is not contained and resolved.

Gathering information on past efforts

Most environmental justice problems that the paralegals encounter are old issues that have existed for several years. Through these years, affected communities may have engaged in many actions to resolve the problems they face. These actions usually include approaching the administrative head of the region with their oral complaints, seeking the help of a local politician, lodging complaints with the company or the industry causing the problem or then approaching the police in extreme cases. In some regions where mobilised affected people are involved in collective action, they may have the support of NGOs or lawyers for litigation or high-level advocacy. Needless to say, paralegals should ideally prioritise those cases where these efforts have not resolved the problem(s), rather than accept the cases that may be on the verge of being resolved through these actions.

The documentation generated from the past efforts of affected people is very important for the paralegal to understand the main complaints, the evidence generated in the past, the institutions approached, the strategies used and the results. This data helps the paralegal to chart out a possible route to the remedy. It helps to understand what strategies worked in the past and which ones may or may not result in remedies in the present context. It also helps to avoid any duplication of work and wastage of resources. The paralegal can take advantage of the work already done and efficiently use the relevant data and documentation generated in the past.

The paralegal gathers this information through site visits and by talking to the various actors involved in these past efforts.



Paralegal in conversation with a leader of the affected community in Vapi, Gujarat

Framing the problem statement

The problem statement is the description of the cause of the case in a sentence or two. The paralegal drafts a problem statement that succinctly describes the specific impacts faced by the affected communities. With the help of the legal knowledge available to the paralegal, s/he establishes the relationship between these impacts and one or more violations or environmental non-compliance. It also establishes who is violating a law, causing the impacts.

The drafting of this problem statement with a clear description of the impact, and related non-compliance attributed to a specific entity upon whom administrative action can be directed, is very critical to move forward on the case. This statement helps to direct the paralegal and community partner to collect the necessary evidence in support of the problem, approach the most relevant institutions and seek the best possible remedy from them.



Paralegal project team members working on framing the problem statement, Myanmar



No Development Zone of the coast, Gujarat

framing the
problem statement

hazardous chemical storage in the coastal regulation zone (crz)

An environmental justice paralegal in Kutch has worked on a case for which the problem statement was “Upcoming storage plant for hazardous chemicals in CRZ-NDZ by a concerned company poses risk to life and health of the residents of Mitha Port.” This problem statement lucidly puts together the type of project, its illegal location and its potential impact. The Coastal Regulation Zone (CRZ) is an area demarcated along the Indian coastline where development is regulated. The No Development Zone (NDZ) within the CRZ is the area where development of any kind is prohibited. The statement points to the location of this project in a legally prohibited zone and the community which will be most affected by this project.

Paralegals may prioritise cases for their work by using the 'CHILL factor' or a set of five parameters that are important if their efforts are to bear some success.

Community partners or clients

The case has community partners or clients. These are usually a group of affected people aggrieved by a common problem. This group is committed to solving the problem jointly with the paralegal.

History

Primarily those cases are chosen where the affected communities have sought some kind(s) of resolution by themselves. This could have been through a Non Governmental Organisation (NGO), using courts or any other means. Exceptions to this may be in situations of emergencies, disasters or particularly complex or exceptional cases.

Impact

Cases that have a large impact in terms of the number of people affected or the number of people likely to be benefited are prioritised.

Location

The cases chosen are in the paralegal's vicinity or local area so that s/he can maintain contact with the affected communities through regular site visits and follow up meetings.

Legal hook

Cases that have a clear legal hook (such as those resulting from a violation of, or non-compliance with laws, administrative practice or judicial orders) to resolve the impact are prioritised over ones that do not have a direct legal clause supporting them. However, in some scenarios, cases that do not have a clear legal hook may be prioritised if the objective is to use the evidence collected through these cases to recommend a new law/legal clauses or amendments to existing clauses.

CHILL



Documentation of every case is a very crucial aspect of the paralegal's work. Every case has a case tracking form, in which paralegals document their cases and actions. Details of the actions taken and justification are documented in the action log at the end of the case tracking form. The case tracking form and action log are updated every time a step is taken to solve the case. The results of the actions are also recorded.

Ideally, there should not be delay of more than a day between a step taken on the case and its recording in the case form and action log. Documentation is to be done from the time a case is selected until it is completed. Since it is crucial for their work, paralegals should systematically allocate enough time in their working hours to this task.

Case tracking form

The case tracking form helps to record information about the affected groups, details of the problem, of the community partner or client group, information about what has been done so far in the case or actions taken by the paralegals and community partners or clients towards remedy. It also records how these actions are responded to by the concerned agencies and plans for their follow up.

The case tracking form serves the following purposes

- 1 If filled in the prescribed order, the case tracking form provides a step-wise process for selecting and solving a case.
- 2 It gives the paralegals the first set of choices of routes to be followed/ actions to be taken to resolve a case.
- 3 At the time of closing a case, the case tracking form helps the paralegals to reflect on his/her actions and its resolution.
- 4 The case tracking form is the basis for the evaluation of the casework by the paralegals and for continuous learning on how to do these cases better.
- 5 It has a wealth of information related to the case that helps to build evidence for different kinds of policy messages related to the law, its implementation, its results, as well as the impacts on communities and the remedies most needed by them.

Case Tracking Form- Environment Justice Program 2017

ELC Name/Code: _____ District/Taluka: _____ Case No. & Title: _____
 Complaint Registration Date: _____ Closure Date: _____ Verification Date: _____ after 3 months of date of end of

Name of the Community Partner (CP) Group (if any- eg. Durga Self Help Group, Jampani Panchayat, Sagar Fishermen Association) CP Type
 Community
 Women's group
 Panchayat
 Any
 Other _____

Repeat from earlier cases: _____
 Repeat from ongoing cases: _____

Information about Community Partners (CP)
 (Attach a list of name, address & phone no. of all CPs Mention # CP who are repeat CPs in the adjacent column)

Livelihood/Occupation (give numbers in the space provided)		# Male	# Female
<input type="checkbox"/> Agriculture	<input type="checkbox"/> Fish		
<input type="checkbox"/> Fisheries	<input type="checkbox"/> Trader		
<input type="checkbox"/> Salt	<input type="checkbox"/> Government Employee		
<input type="checkbox"/> NMFP collector	<input type="checkbox"/> Professional		
	<input type="checkbox"/> NTFP collector		

How did the CP know about the ELC? Training/Referral/Any other _____
 Why did the CP approach the ELC? Lack of time/Lack of resources/Seeks support in visiting institutions/Don't know how else to pursue the case/Any other _____

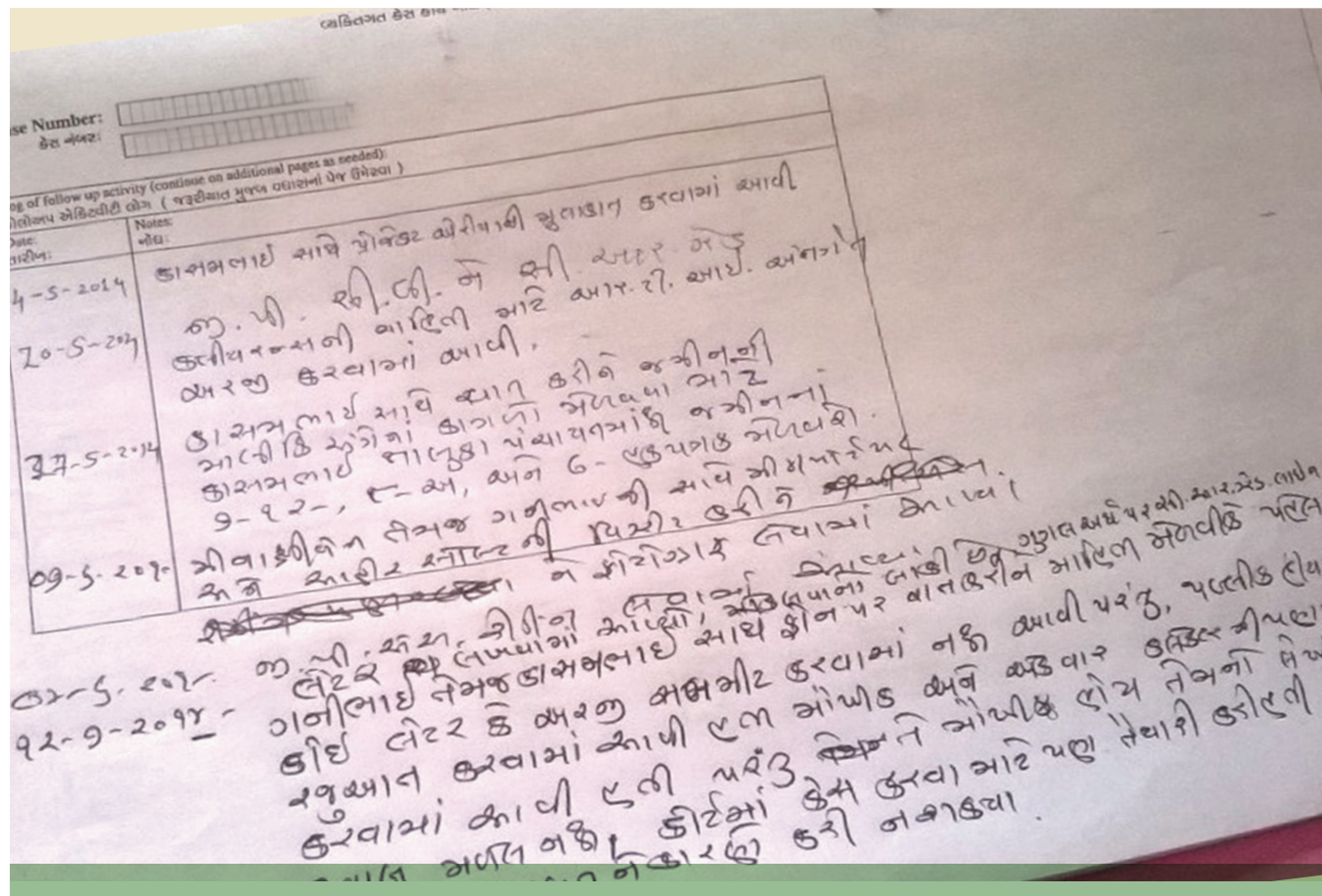
Self Employed
 Student
 Unemployed
 Any other: _____

The Case Tracking Form is a document that holds all the relevant information to select and solve a case. One format of a full case tracking form may be downloaded from <https://namati.org/resources/case-form-environmental-justice-india/>

This format may be revised to suit your work context and type of cases.

Paralegal action log

The paralegal fills out the case action log every time something has been done for the case. The log is best filled out in as much detail as possible and chronologically (date-wise). The actions to be recorded include collection of documents, meeting with an official or a committee or filing of an application under the Right to Information (RTI) Act. (Laws governing access to government information are available in different countries and would have different titles and scope. India's access to information law is called the Right to Information Act, 2005.) Along with recording the actions, copies of documents like the minutes of official meetings, copies of RTI applications and the responses received should also be attached with the action log. This ensures that all the evidence about the actions taken for the case is available in one place for reference at any time.



Day-by-day action log of a case in Gujarat maintained by a paralegal



Systematic documentation helps the paralegal teams present their cases and lessons whenever needed

Case file

The paralegal creates a file for each case to keep the case tracking form, action log, all the documentary evidence of actions taken and other supporting documents related to the case. The case file is very important to study the case as it progresses and to understand the effort made for the case.

In cases where information is sensitive and risks of disclosing names or other details high, measures can be taken to code information or anonymise the case form.

If there is any information for which there is no provision in the case tracking form, the paralegal could attach another sheet and write out that information in detail.

The paralegal should collect as much information as possible in the form of relevant documents like older petitions and complaints submitted by the affected communities, newspaper reports about the case or issue, proof of permissions, notice of eviction or rejection of permission and court orders. It is best to make photocopies of all these documents and return the originals to the owner. The copies of these documents could be kept along with the case tracking form.

No question or column in the case form should be left blank. If it is not relevant, it is best to mention that rather than leave it blank. If it cannot be answered, it is best to mention "can't say" or "not known".

precautions



3.3 case analysis and action

Through investigations and gathering relevant information, the paralegal develops an objective understanding of the case. It may involve making multiple visits to the site of the problem, talking to other communities and individuals who may know of the situation or details of the problem, scanning through local newspaper and television reports and reading the relevant laws and policies.

In some cases, with more information becoming available at this stage, the problem statement may need to be revised. Review and revision of the problem statement based on new information is a good practice and does not in any way suggest failure on the part of the paralegals or community partners/clients. Based on all the gathered information, the paralegal develops strategies and identifies the institutions that would need to be approached for remedies in the case.

analysing the case

hazardous chemical storage in the coastal regulation zone (crz)

Following up on the paralegal's case referred to on page 19, when he interviewed, he found out that the construction of the storage plant was going on in the CRZ area and was affecting the local people. On the site visit he found out that a school was also in the vicinity of the plant and therefore it posed a risk to the life of the school children along with the Mitha Port residents. This increased the impact of the case significantly. He also learnt that the locals had raised their concerns before the District Collector in the past.

One important lead in this case came through information gathering on the project. When the paralegal went through the environment clearance letter issued to the project, he found out that the location of the project as mentioned in the project application and subsequent clearance letter was different from where the project was actually coming up. Hence, now the case was not only about a CRZ violation, but also the faulty information on the basis of which the environment clearance was granted to the project.



The chemical storage plant in the No Development Zone in violation of the CRZ law, Gujarat



A paralegal investigates the impacts of dust from a coal plant on vegetable farms, Gujarat

Paralegals use many strategies to resolve cases and may use more than one strategy in one case. These strategies involve the knowledge of facts, notifications, government circulars/orders and court judgments/orders that may be relevant to the case. The paralegals are trained to advise the community partners/clients on the law, legal processes and options for handling their problem, based on the nature of the case. The paralegal discusses with the community partners/clients the laws that have a bearing on the case, the institutions that can be contacted and ways to resolve the problem.

Following these discussions, they jointly develop a plan of action for the commonly desired outcomes of the case. This plan of action includes a combination of several complementary strategies that are described in this section.

Awareness building on laws

Legal trainings are particularly useful in identifying and addressing the root causes of justice problems as well as in generating informed participation from the affected community in seeking remedies. Building the knowledge of communities in relevant laws that are meant to prevent or remedy injustice is at the heart of legal empowerment. For instance, paralegals in Uttara Kannada, Karnataka (India) were approached by many individuals from the local fisher community. They sought the help of the paralegals in obtaining permissions for the construction of their homes on coastal lands. For the first five to six cases, the paralegals helped their community partners or clients in filing applications and getting the required CRZ clearances. Upon realising that many in the community face/may face the problem, the team decided to raise awareness about the law. The paralegals distributed reading material to make the fisher community aware of the procedure of procuring a CRZ clearance for a house. As the legal awareness about these procedures was raised, the paralegals did not need to take up any more house clearance cases. Instead, they telephonically advised new community partners or clients and referred them to the printed material. The paralegals also accompanied the community partners/clients to the CRZ offices only if their case involved other complications.



Paralegal pasting posters explaining laws, Karnataka

Information collection and evidence building

An important task for paralegals dealing with cases is collection of information and evidence building. A paralegal and the community partners will be taken seriously by the government bodies, the erring party, media or the community if they have detailed information of the case and evidence of violation/non-compliance. They can collect information and evidence in the form of photographs, maps, Global Positioning System (GPS) coordinates, government circulars, newspaper/television reports, and academic/government papers/studies/reports. The evidence gathered should be able to prove that the impact is caused due to non-compliance or violation of a particular law. The causal relationship should be depicted. Groundtruthing is a method by which clear evidence can be built to support environmental justice complaints.

In some cases where there is no compliance or legal standard against which to show impacts, evidence of harm or damage should be presented with as many factual details as possible, so that a complaint may be registered with the respective institution.



Woman showing the effect of effluent from an iron ore mine on the riverbed, Odisha

For more information on evidence building, download the *Groundtruthing Methodology*
Note: <https://namati.org/wp-content/uploads/2016/06/Groundtruthing-methodology-note.pdf>



Paralegal and community partners meeting with people affected by mining impacts, Odisha

Deliberative discussions

The paralegal works *with* affected communities rather than *for* them. The goal is not only to help find remedies to their problems, but also to generate learning of laws and skills of problem solving in the communities. This learning is achieved only by working on the case jointly. Every action on the case is discussed through a deliberative process, such that the deliberations result in decisions on how to move forward with the case.

For effective and relevant deliberations, the paralegal provides the community partners or client groups all the necessary background information on the case, all the new information s/he has been able to access and potential routes to different remedies. The client group or community partners deliberate on the information presented and discuss the pros and cons of various actions. These deliberations are held in a neutral place, in a manner that allows maximum participation of most, if not all, members affected by the problem. Debates and well thought out arguments are encouraged over monologues, commands or rhetorical lectures. These discussions are crucial to build community knowledge as well as capacity to discuss problems, potential solutions or remedies and the costs and benefits of the options available. Through these discussions, paralegals demonstrate the workings of deliberative or participatory democracy.



Paralegal with Pollution Control Board officials inspecting a pipeline leakage, Gujarat

Approaching authorities and institutions

Paralegals assist their clients or community partners in reaching out to institutions such as the Environment Department, Revenue Office, District Collector's office or Fisheries Department. This assistance may mean finding out the location and office timings of these offices or their contact details. It could also involve drafting letters, writing complaints, filing RTI applications, making office visits and phone calls. With time and building of skills and knowledge, the need for this assistance could reduce and mere referral and providing contact details may serve the purpose. In general, resolution should be attempted (if not already tried) at the nearest possible institution. For example, village level/local level bodies such as the panchayat (village council) and the municipality should be contacted first, followed by block, district, state and then national level. However, depending on the impact and scope of the problem or for certain strategic reasons, sometimes it might be more useful to contact the institutions higher up in the line.

Resolution is possible even through those institutions and laws which may not be the obvious choice or directly responsible for the problem or its remedy. For example, in a case of securing insurance for estuarine bivalve collectors, besides the State Fisheries Department, those departments dealing with human resources, minorities and child and women development were approached. Similarly, in a case to address the impacts of a pipeline, a specific land acquisition law pertaining to pipelines was brought into effect.

Identifying institutional allies

At the initial stages of the case resolution it is useful to identify institutions that could help in the resolution of the case. These institutions are different from the ones that are directly responsible for causing/overlooking a problem. However, these could be responsible for the welfare of a particular community or group of people (e.g., the Fisheries Department, Women and Child Development Department, or the Ministry of Tribal Affairs). There could also be times when an institution can be brought onboard as the case has an impact on the area of its jurisdiction. For instance, an illegal garbage dump by the municipality on forest/ coastal land may, besides causing inconvenience to the people of the nearby villages, be a problem for the Forest Department or the Coastal Zone Management Authority under whose jurisdiction the site of the illegal dump falls. Such institutions could work as allies on the case and help in faster and easier resolution of a case.

While some institutions that have been used in the work done in India are the following, there are many more institutions that can be used by paralegals.

PANCHAYAT

MAMLATDAR (LOCAL LAND REVENUE OFFICER)

DISTRICT COLLECTOR

DISTRICT LEVEL COASTAL COMMITTEE

FOREST DEPARTMENT

FISHERIES DEPARTMENT

REGIONAL OR STATE POLLUTION CONTROL BOARD

REGIONAL OR STATE COASTAL ZONE MANAGEMENT AUTHORITY

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE



Paralegal working with community partners to draft a complaint on air pollution, Chhattisgarh



Paralegal and community partner reading an official letter sent by the local authorities in response to their complaint, Karnataka

Drafting petitions/complaint letters

Another important action is drafting petitions/letters with the clients or community partners. This action could also be seen as a precursor to approaching institutions. It may require more work from the paralegals in the initial stages. However, once the clients or community partners pick up the skills for drafting letters, the paralegals may only have to advise them on the contents or legal information that forms the basis of the letters. In Uttara Kannada, with the help of a paralegal, residents of a village submitted a petition to the municipality with regard to the dumping of solid waste atop a nearby hill. This dump had polluted the nearby areas and water source and posed a risk of a disease outbreak.

The letters drafted to resolve cases or problems affecting communities typically involve the problem statement, the details of the nature and history of the problem and of those who are impacted by it. It also includes the evidence generated or collected to establish these observations. Finally, it may also include details of what actions are sought from the concerned institution to resolve the problem. In many situations, the paralegal and clients or community partners may decide to pursue a case just to establish the problem or get the institution to recognise the problem as a first step, and only then include recommendations, demands or remedies in the subsequent stages of the case. See *Sample Complaint Letter in Annexure 2*.

Reporting in the local media

Paralegals may report cases of violation and associated impacts to the media. However, the decision to take this action should be taken based on the context. Sometimes, reporting to the media prematurely may irritate or put off the concerned department and cause it to become antagonistic. In other situations, the media is useful to exert pressure on behalf of the affected people on the concerned institution and lead to speedier and better remedies. Contacting the media is also useful in situations when they are willing to sustain media attention on the problem rather than a one-time coverage of the issue. Paralegals are also very well-placed to write about their cases for the media.



Newsreport of a landfill site case, Karnataka

Mediation

Paralegals can help two or more parties that are in disagreement/conflict to reach a resolution. Mediation is different from the strategy of negotiation or representation. While mediating, one does not take sides but tries to offer a fair and balanced solution to both the parties. In negotiation or representation, one has already selected the side one is on and offers a solution to the other party on behalf of the selected party. Mediation can be a cheap and quick way to a remedy if it appears that the party causing the impact is amenable to resolve the matter. It gives the erring party the benefit of doubt and an opportunity to restore or rectify the situation or problem. In Uttara Kannada, a hatchery construction had blocked a creek. This was in violation of the CRZ law and the construction had restricted the entry of water in the nearby fields. A paralegal got the hatchery owner and the farmers whose fields were getting affected to have a meeting. The hatchery owner had not expected the farmers to raise any concerns in the matter. On learning that farmers were contemplating complaining to the CRZ office, he agreed to demolish the construction and clear the creek.

In exceptionally difficult or serious cases, a paralegal can refer a case to a lawyer, who can use litigation to obtain a solution. There are also many other strategies that paralegals use based on their creativity and what the context allows.



Paralegal convenes a meeting of the newly formed bivalve collectors group, Karnataka



Paralegals working on their field notes to develop case strategies, Odisha

Complete understanding of the problem or nature of impact, what all has already been tried to address it and the reasons for its failure is a prerequisite to plan the steps for every case.

Paralegals should ensure that the plan of action (and any changes to it during the course) is decided in discussion with the clients or community partners.

Combination of strategies or trying multiple strategies simultaneously is advised instead of relying on just one strategy to show results. However, at times the given bureaucratic and political scenario may demand otherwise.

As far as possible, communication with the institutions should be done with the full involvement of the clients/community partners. For example, draft letters/petitions should be discussed with them before finalising and should be sent by them, phone calls should be made in their presence, and gradually the community members should take charge of all visits and phone calls related to the case.

The plan of action should be nimble and flexible; strategies that put the paralegals, clients, community partners and colleagues at risk should be avoided.

The community partner or client's involvement at each and every step of problem solving is obligatory.

precautions





The efforts of community partners and paralegals in Keonjhar, Odisha have resulted in an improvement in the transportation of minerals that cause air pollution.



Paralegals and Community partners in Uttara Kannada, Karnataka have been successful in obtaining the clean up of landfill sites through carefully drafted complaints brought to the Municipal Authorities



For the purpose of reporting accurately on each case at any forum or meeting, preparation of case details on the following lines is useful. These are the Frequently Asked Questions (FAQ) to paralegals by anyone interested in their cases or their methods such as government officials, potential supporters of their work or the media.

the basics

1. What is the problem the case is addressing? Who is affected by the problem and in what ways?
2. Who identified this case? Who are the clients in this case? How many of them are men, how many of them are women?
3. Who is the violator (government/contractor/project authority/individual/not clear yet)? What laws/clauses/court orders are being violated?
4. Why is this case important? Or, if this case is solved, how many people will benefit? How many men, how many women (closest approximate numbers are okay)? What benefits will they enjoy (e.g., clean air, representation in decision making, access to public space like beaches, livelihood benefits, etc.)? Please specify clearly and as far as possible, with evidence.

the history

5. What action have others/clients taken in the past to solve the problem?
6. Why were they not able to solve the problem?

the remedy

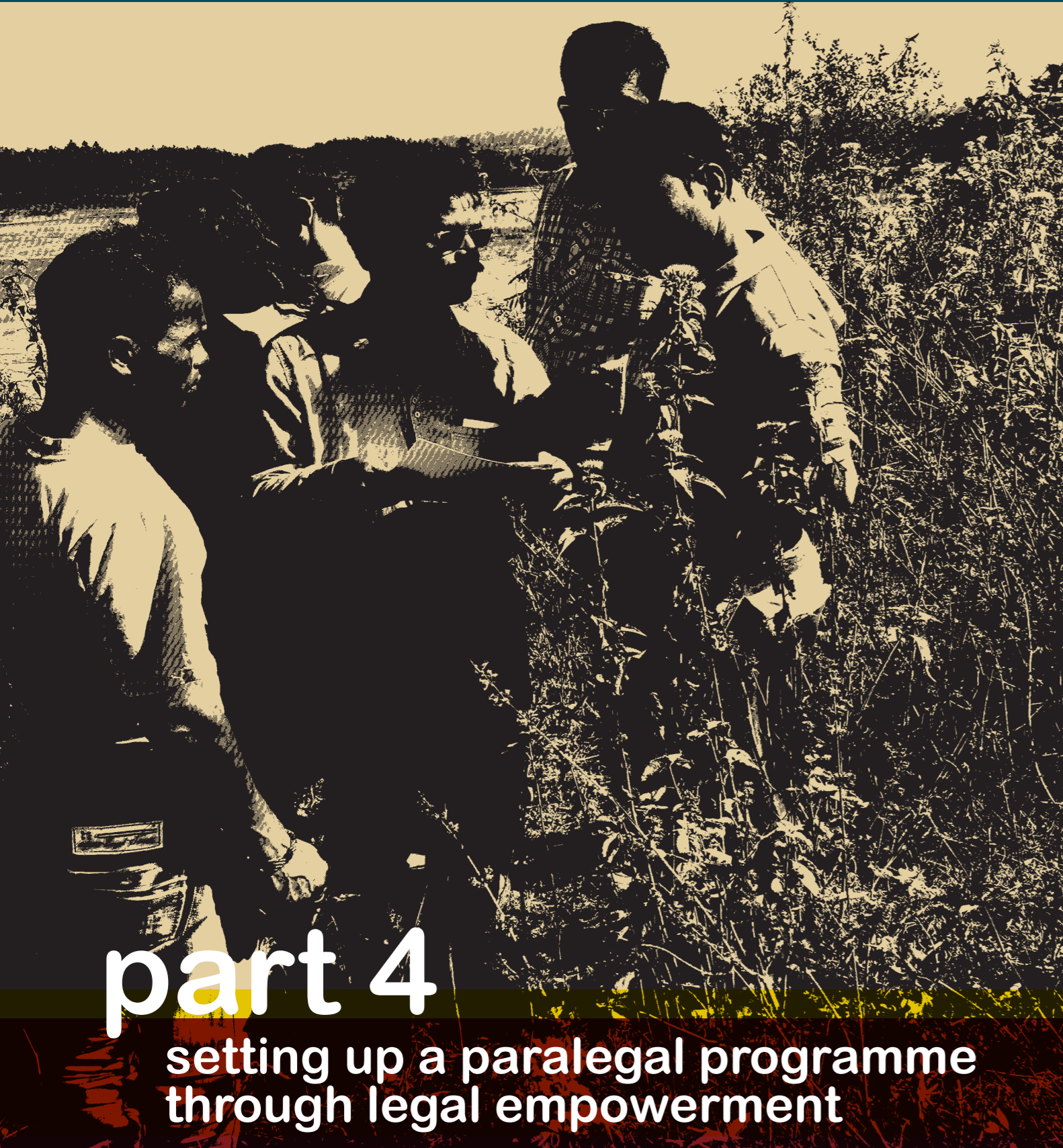
7. What is the remedy sought in this case?
8. Which all officers/departments did you approach for the remedy? Please give the full list, their responses and the time they took to respond.
9. Among the officers/departments approached, who do you think is directly responsible for the remedy you sought?

the methods

10. What kinds of evidence did you prepare for the case? Please list clearly (e.g., photos of slurry dumping site on three continuous days, newspaper articles about complaints by locals on dumping, Google Map with coordinates of dumping sites and National Park boundary marked to show that dumping is taking place inside the Park).
11. How did you communicate with the officers/departments (e.g., letter/RTI application/phone call/in person visit)? How many times did you communicate in these ways for this case? How many clients joined you in these processes?
12. What other methods did you use? Please mention clearly (e.g., media reporting/community meeting/petition by community/other).
13. Why do you think you were able to solve the case (e.g., good evidence, clear legal hook, responsive officers, community strength, etc.)?

the benefits

14. What did you learn from this case?
15. If this problem occurs again, will the clients or community partners be able to solve the problem on their own? Why/why not?



part 4

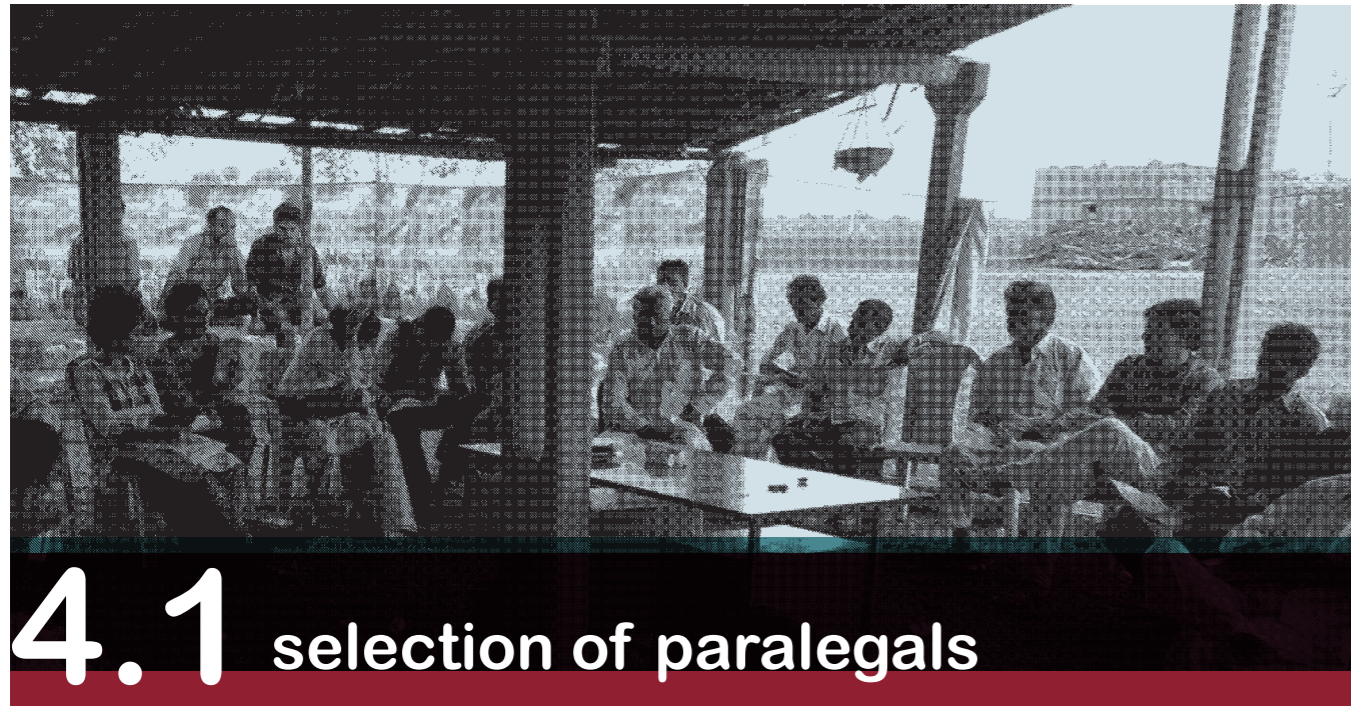
setting up a paralegal programme through legal empowerment

Any organisation dedicated to the goal of bringing justice to communities affected by socio-economic problems and environmental harms, and marginalised by official decision making processes could set up a programme by employing paralegals or community legal advocates.

The implementation of a paralegal programme requires at the very least, careful selection, training, on-going support and evaluation of a team of community-based paralegals. These aspects of the programme need to be developed and revised keeping in mind the changing political and legal context in which the paralegals work. So, it is useful to recognise these as elements that go into building an effective paralegal programme, rather than fixing them together as a 'model'.



Creating leaders through legal empowerment.



4.1 selection of paralegals

The success of a paralegal programme depends on its team of paralegals. Carefully chosen and trained paralegals help to build trust among affected people and develop healthy relations with them to carry out joint work.

Paralegals use their teaching skills to empower communities and communicate with the wider world about what problems communities face and how they can be resolved. They are committed people with leadership qualities, respectful to all and always hungry to learn. They not only work for the communities that they belong to, but also as public-minded individuals who act against injustice.

Volunteers are crucial for any legal empowerment effort, but some form of compensation is crucial for paralegals. It is difficult and/or unreasonable to ask people to undertake the rigorous work of an environmental justice paralegal without some reimbursement for their expenses and some compensation for their time.

The following steps could be part of a process for the selection of paralegals.

Job announcement

An announcement mentioning the required qualifications and skills, terms of reference, employment period and other details would need to be prepared. The announcement can be circulated widely in colleges and universities, including the departments of social work, law and social sciences. Other ways of putting the word out are distributing pamphlets in colleges, speaking to university students and asking existing paralegals to spread the news. Interested candidates could be asked to share their curriculum vitae, a cover letter and references.

Shortlisting

In order to shortlist candidates, applications can be assessed on the basis of the candidate's experience, educational qualifications, writing ability (assessed through the cover letter), location (with respect to the field site), references and work interests.

Test and interview

Shortlisted candidates may be called for a test. In a first round, there could be a written test in which they are asked to draft an RTI application and maybe write an essay regarding an environmental justice concern in their area. While writing about the concern, they could be instructed to frame a problem statement, identify a law through which the solution can be sought and the possible remedies. In the written test they may also be asked to draft a complaint letter to a concerned government department about a problem affecting the residents in their area. The RTI application, letter and essay could be assessed for logic or arguments, language and clarity of expression.

The second round could be an oral test. This could include a group discussion and an interview. This is an opportunity for the candidates to be scored on their confidence, knowledge of current affairs and the geographical area of their prospective work. All these scored could help to arrive at the final selection. The process of selection from the day of job announcement could take up to 45 days.



Meeting to launch the association of community partners in Saurashtra, Gujarat

Training

The candidates, after selection, should be trained in the paralegal methods, problem solving strategies and important environmental laws. The initial training period could include a series of classroom sessions that incorporates lectures, presentations and exercises. The training period could also include ‘on-the-job’ learning. The new paralegals could accompany senior paralegals while they visit government offices, meet their clients and community partners and assist them in solving their on-going cases. These on-the-job trainings could take up to 90 days, post which the new paralegals can open their cases.

In addition, the paralegals may be invited to a refresher programme at least once a year to update their knowledge of laws, discuss cases and methods of casework, build capacity in community mobilisation, use tools for evidence gathering or developing a greater understanding of specific environmental topics. These refresher trainings are important to ensure that the paralegals are constantly learning and improving their knowledge and capacity to undertake casework.

See Annexure 3 for Sample Agenda for Paralegal Training

Training modules can be prepared based on the case lists of the paralegals, the types of cases and the kinds of institutions they are working with. Training methods should ideally include readings and case exercises, group and individual presentations, legal quizzes and debates, all with ample opportunities for the paralegals to demonstrate their learning.

It is useful to prepare and use legal handbooks, methodology notes or guides and hand-outs at these training sessions which the paralegals can use as reference material for their work on cases. It is most effective to print or publish such material in simple and easy to read formats and which can be updated periodically. This is to accommodate changes in laws and revisions in paralegal methods based on new types of cases or other considerations. The paralegals should ideally be supervised and supported by a coordinator or coordinators through weekly check-ins and monthly update meetings. Each coordinator could supervise up to six to eight full-time paralegals.



Team level training based on the cases of the paralegals in Orissa



4.2 supervision and support

The coordinators of the programme are well versed in laws, research methods and in community building. In cases where they are located far away from the paralegals, the coordinator could conduct weekly check-ins telephonically. In other cases, the coordinator and paralegals could meet on a weekly basis. When possible, the coordinator could also conduct site visits and community meetings with the paralegals. In essence, the three main roles of the coordinators are to support paralegals with legal information, with strategies to achieve remedies and aggregation of case data. These may be done through weekly and monthly reporting processes.

Weekly reporting

The paralegals could report to their supervisor or coordinator once a week on the progress of their cases. Strategies, actions by them and responses to them by government institutions may be discussed along with the planning of next steps. Weekly reports may contain the following:

Summary of ongoing cases, highlighting work done in the previous week and the work planned for the upcoming week

Details of new or potential cases

Updates on resolved/closed/inactive cases

Other activities undertaken

Along with serving the obvious purpose of monitoring the progress, this is also an opportunity for the paralegals and the coordinator to brainstorm together about next steps and creative remedies to be tested in tough cases. The feedback generated by this process is quick and could help to move forward on cases in a timely manner so that the remedy can be achieved as soon as possible.

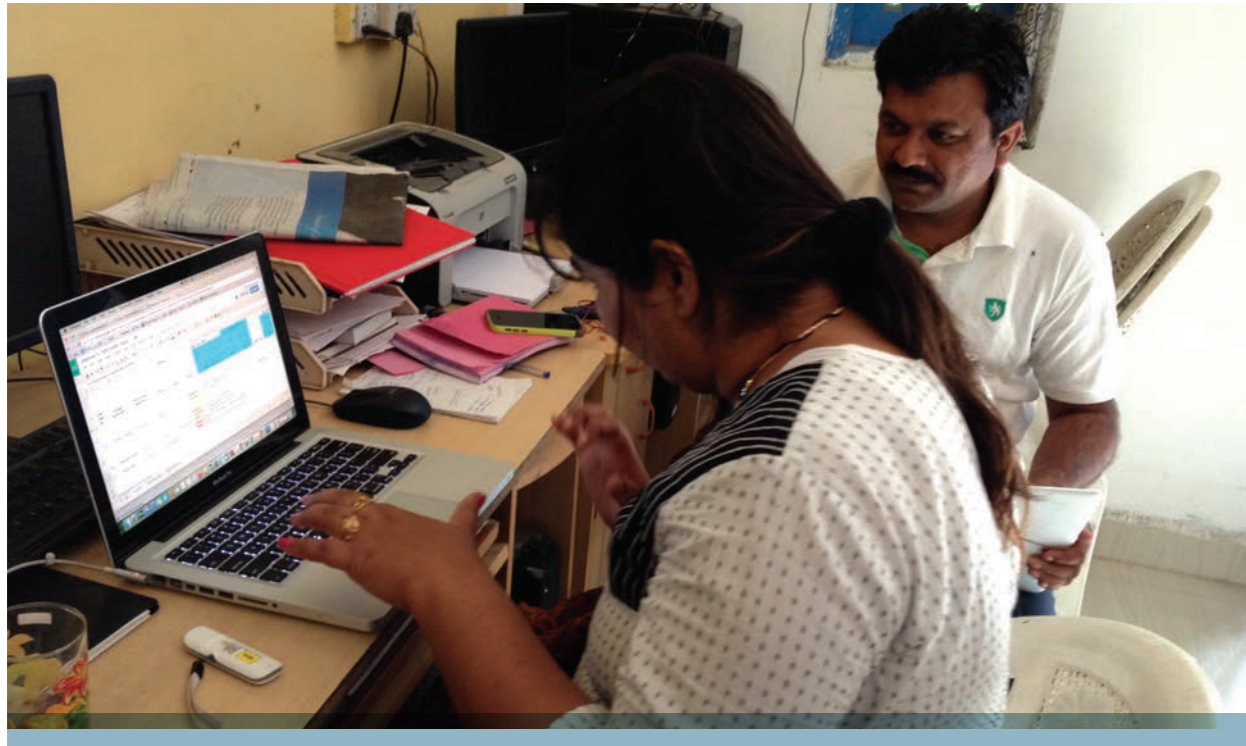
Monthly meetings

It is useful for the coordinator to hold a meeting with all the paralegals at one place every month. This will serve as a platform for the paralegals to share and learn from each other's cases and to brainstorm collectively on possible solutions and monitor the progress on all their cases. These monthly meetings would essentially help to build peer learning and capacity in holding meetings and talking about their cases. The case forms and case files could be used in these discussions.

Besides these weekly and monthly discussions, paralegals can get in touch with the coordinator more often to seek advice on resolving the cases. This is particularly advised when re-strategising is required if an earlier planned action is not working out.



Regional training on the use of the compliance crowdsourcing website, a tool to track non compliance of projects



Paralegal supervisor supporting a paralegal to document case information into an online database of cases, Gujarat

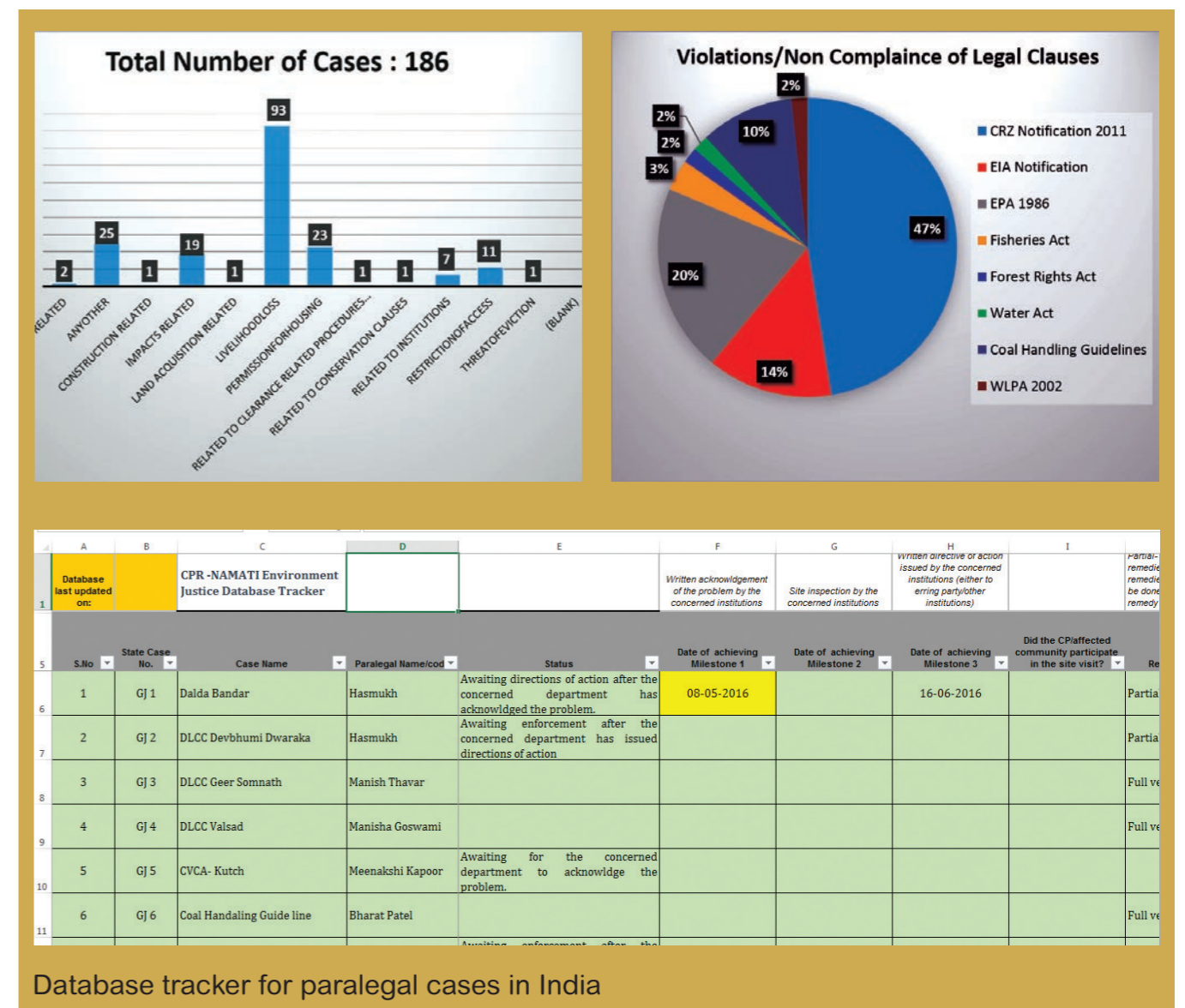
Research support

It is extremely valuable to have the coordinators and their team of paralegals supported by a research team, which analyses the cases and how they are progressing. The research team may receive the weekly reports from the paralegals and also attend the monthly meetings. By tracking data from the cases rigorously, the information collected in the case tracking form and action log can be compiled in a case database. This database can provide valuable information.

For example, using the database of cases in 2014, it was found that one paralegal team showed a 33 per cent success rate. The database also revealed that cases to help coastal dwellers to submit the required papers for the CRZ permission were the most successful case type. It also showed that at least two or three relevant institutions have to be approached for the successful remedy of cases.

Information from the cases could be used to improve the paralegal methodology and performance. Additionally, it could be used to generate evidence-based proposals for systemic changes in laws and institutional practices.

For example, in India, case data showed that paralegals were encountering many cases in which fisher people and farmers were affected by non-compliance with conditions of environment clearances. Based on that information, the programme designed and delivered a training module for the paralegals on the Environment Impact Assessment (EIA) process. Since then, there have been improved outcomes in cases when governments or firms have breached environment safeguards listed in these conditions. Using the database, such reports can be generated at regular intervals as it helps to aggregate information on several parameters in each case.





Meeting to launch the association of community partners in Saurashtra, Gujarat

Building allies and associations

It is crucial for paralegals to develop their client groups or community partners into associations. These can be forums to discuss case challenges, understand trends in case resolution, exchange lessons on strategies and even take up groups of cases for collective action. It is also important to engage with people who can act as a catalyst in their cases. These people could be lawyers, scientists, activists, journalists, social workers, politicians, local elected representatives or NGO representatives. These are essentially the individuals/organisations whose support can be drawn into the case to arrive at resolutions. Besides increasing the likelihood of case success, access to these people will add to the credibility of the paralegals. The programme can provide opportunities and forums where the paralegals meet experienced lawyers, subject specialists, scientists and NGOs working on similar issues. Paralegals, in consultation with their coordinators, could approach such individuals in instances like the following:

The paralegal is not able to solve the case on his or her own

The impact of the case is particularly severe

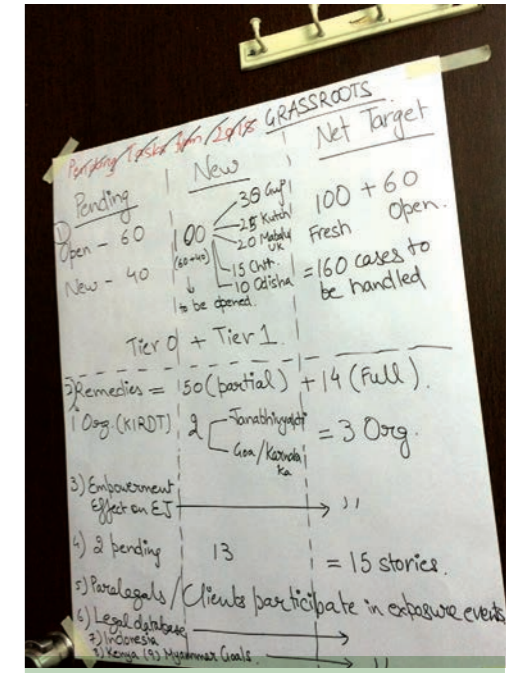
The case involves an emergency situation

The case has a potential of widespread legal impact

Help from these individuals can be sought even at the time of setting up of the programme, for training the paralegals or as an advisory group that meets periodically. They are not only valuable to support the paralegals in their work, but are also ambassadors for the programme and create avenues for greater outreach of the programme within government, among donors and other institutions.

Evaluation

Evaluation or assessment of effectiveness is an important aspect of the paralegal programme. This is for continuous improvement in the performance of all those involved in the programme, as well as to communicate to others what such a programme has achieved and how. Evaluation methods may be built into every case form or can be undertaken by a research team as a separate project, or both. Evaluation needs to be periodic and regular so that it provides feedback that is timely and relevant.



A handmade chart of results of the mid-term assessment of paralegal cases in India



Street play by paralegals and a local drama troupe on how the Coastal Regulation Zone law can help the fishing communities, Karnataka

Finally every case needs to be assessed at three levels.

1 Remedies

The paralegal could work on each case to achieve a clear compliance related remedy to address the present source of impact. For example, the paralegal ensures that trucks carrying coal are covered in compliance with the norms so that impacts caused due to the dust in the air are reduced. However, in order to ensure that past harms are addressed, the paralegal and affected communities could also pursue additional remedies such as compensation. In order to ensure that compliance is guaranteed in the future too, they could pursue remedies such as penalty clauses for all truck companies who run uncovered trucks or the setting up of a community managed check-point where all the trucks are covered before they begin their journey.

Whatever the compliance and additional remedies the case pursues, they must be assessed for whether they have stopped the non-compliance and addressed the past and/or future burden of the harm. Environmental justice cases are of recurrent nature and even the remedies to these could be transient. For instance, after the efforts of the clients and paralegals, illegal sand mining or ground water drawl may stop. However, there is a possibility that it could resume some time. Hence, having a specified time period to consider a remedy stable will be useful. To close a case, it is required of the paralegals and the clients to have a relook at the site of problem at the end of a specified period. If the illegal activity resumes within the period, the same case is reopened. But if the activity resumes after this period, a new case is opened.

In most contexts, even achieving partial remedies requires considerable effort, time, legal knowledge and institutional navigation. Therefore, partial remedies are acknowledged as positive developments.

2 Actions

At this level, what contributed to the case resolution is assessed. While a number of factors affect the resolution of a case, it is important to ascertain the paralegal's role in it. At the time of closing the case, the paralegal should make sure that there is evidence of his/her contribution to the successful resolution of the case. This may be obtained through the testimony of the client, the government officer/s involved in the remedy, media reports or a government circular/order/reply to an RTI application/etc.

3 Legal empowerment

The main goal of a legal empowerment programme is the building of capacities of communities and affected people in understanding and using the law. So an evaluation of the work of the paralegals or the programme should involve some mechanism to assess the legal knowledge and capacity of those whom they work with. This can be done either at the level of individual cases or for a sample of cases. It can be assessed by identifying if the clients or community partners know about the laws and institutions involved in the case as well as if they are able to help others who face similar issues with this information. A useful way to conduct these assessments is to involve members of the community in training programmes organised by the paralegal.

Keeping in touch with the clients even after the resolution of cases is highly recommended. This will help in recording instances (if any) of clients resolving similar cases in future or clients themselves becoming or working as paralegals. Narratives of such instances would enrich the evaluation exercise.

For evaluation to be a regular and useful part of the programme, it is best done periodically (based on practical considerations such as staff and resources available for this) through meetings with community partners/clients. Evaluation through third-party groups, by administering interviews and questionnaires among the served clients or communities can also be carried out to study the 'empowerment effect'.





annexures

Sample Letter on Policy Recommendation



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7th November 2016

Shri Hardik Shah
Member Secretary, Gujarat Pollution Control Board
Block No: 14/8th Floor, New Sachivalaya
Sector 10 A, Gandhinagar
Phone: 079 2325660, email: hardik_73@yahoo.com

Subject: Regarding issuing State Level Mineral Handling Guidelines

Dear Mr Shah,

We are associated with the Centre for Policy Research (CPR)-Namati Environment Justice Program and have been working to address environmental impacts in several parts of coastal Gujarat. Through our work in Gujarat, we have been working with people whose lives and livelihoods have been impacted due to the mishandling of minerals during their mining, transportation and storage. Our experience and documentation is based on handling over ten cases in the Saurashtra coast in the districts of Jamnagar, Devbhoomi dwarka and Junagadh, where there have been instances of complaints being filed to the Gujarat Pollution Control Board (regional and central offices) to address these issues.

This experience has led us to identify that there are no guidelines that address the social and environmental and social impacts arising out of mining, transportation, storage and handling of minerals (other than coal). We have therefore put together suggestions to frame guidelines to mitigate some of these social and environmental impacts for your consideration.

As per Section 17 of the Air (Prevention and Control of Pollution) Act, 1981 the Gujarat Pollution Control Board (GPCB) is responsible for prevention, control and abatement of air pollution and has powers to perform such activities that it thinks are necessary for carrying into effect the purposes of the Act. Similar provisions are also there in Section 17 of the Water (Prevention and Control of Pollution) Act, 1974. Also under Section 31A of the Air Act and Section 33A of the Water Act, GPCB has the power to issue directions to any person, officer or authority, subject to the provisions of the Acts. There is also precedence of the GPCB in issuing Guidelines for Coal Handling Units, which has been extremely useful in mitigating impacts across the states.

We therefore urge the GPCB, using the powers vested to it under the Air and Water Acts to issue Guidelines for storage, transportation and handling of Minerals for the State of Gujarat so as to address the social and environmental impacts on the health, livelihoods & natural resources that are

caused while transporting, storing and handling minerals. These guidelines cover minerals such as Bauxite, Bentonite, Limestone, Quartz, but is not limited to these but is extendable to the list of minerals in the annexure, which is reviewed on an annual basis by GPCB.

SUGGESTED MINERAL HANDLING GUIDELINES

The following safeguards and conditions should be made legally binding on anyone who is engaged in mining, storage, transportation and handling of minerals:-

1. Citizen's Participation in Monitoring & Enforcement

We urge GPCB to use the powers given to it under Section 24 of the Air Act and Section 23 of the Water Act which allows GPCB to empower any person to perform any function entrusted by the Board and allow for citizen's participation in monitoring and enforcement. The GPCB has itself through a circular on 4/2/2016¹ has made way for certification for third party inspection for orange industries, we request the GPCB to expand its definition for better compliance of environmental standards. Besides the use of technology, another effective way for better compliance is by including the active participation of affected communities as third party monitors, who could enhance enforcement through the collection of legally admissible evidence. By empowering the community that are facing the impacts of non-compliance of these guidelines, the GPCB can be assisted in monitoring the enforcement of these guidelines. We would be happy to share our experience of handling close to 10 cases in Gujarat on how community worked with the GPCB in monitoring the implementation of Guidelines on Coal Handling issued by GPCB in 2010. In ten cases, these guidelines have been successfully followed to reduce the impacts arising out of coal handling in ports, coke oven plants, power plants and during transportation.

2. Transportation of minerals

- (i) All the transport vehicles when loaded with minerals for any kind of transport should be sprinkled with water and sealed tightly with sheets or any other air sealed material so as to ensure that there will be no spillage of minerals.
- (ii) Poor conditions of roads are found to have direct linkage with the air pollution levels.² The access roads from the mining areas should be concretised. If these roads are not concretised, then measures should be taken to ensure sprinkling of water on these roads by the project proponents. For project proponents having mining leases for more than 30 years, these roads should be compulsorily concretised. As the mining companies are there for a longer period, it will be financially more viable for the company as well as environmentally sound to concretize roads and minimize the environmental impacts.
- (iii) The project proponent should mandatorily plant trees of the access roads so as reduce the impacts in case mineral dust falls from the transport vehicles. The trees that are to be planted should be based on the soil type. For example in the coastal areas Sharu (CasuarinaEquisetifolia) can be planted, Piludi (Salvadora) which has a higher survival rate could also be planted³. The selection of the species for plantation can be done under the

¹http://www.gpcb.gov.in/Portal/News/121_1_343763.pdf

² Nair, A. (2016, September 16). Pollution Control Board report: Air pollution on the rise in Gujarat, both in cities and industrial clusters. *The Indian Express*. Retrieved from <http://indianexpress.com/article/india/india-news-india/pollution-control-board-report-air-pollution-on-the-rise-in-gujarat-both-in-cities-and-industrial-clusters-3012467/>

³ RajendrasinhMansinhKashtrya v Gujarat Pollution Control Board &Ors, NGT 2013

supervision of a multi village level committee along with the relevant government departments like forest, horticulture.

- (iv) Usually the transportation of minerals is done during night time, which makes it difficult to check if the rules are being adhered to. It should be made mandatory that the transportation of minerals occurs during day time, where the plying of the transport vehicles should be staggered, so as to avoid traffic jams. The number of transport vehicles that should ply within a time period can be decided upon after conducting studies by a committee that would be composed of the members from GPCB, the State Transport Department, atleast three local community representatives, members from the local bodies like the nagar palika, gram panchayat.
- (v) The vehicles carrying the minerals should not be overloaded, as per the parameters laid down by the Ministry of Road Transport and Highways⁴. Overloading of trucks increases pollution levels⁵, it has also been banned by the Supreme Court in 2005⁶.
- (vi) Electronic Weigh Bridges, should weigh at every centre from where the mineral is loaded and transported, so as to check the overloading of the trucks. Digital data on weight should be directly linked with PCB, which should be made available to the general public.

3. Storage of minerals

In this section the storage of minerals includes storage at the place of mining, when used as a raw material, at stockyards, ports, during transit.

- (i) The storage of any kind of mineral at the place of mining, where used as a raw material, at ports during transit, for transportation of these minerals should be done in covered structures. Further the storage of the mineral should take place at a height below the level of the wall of the storage area.
- (ii) There should be a wall of 9m height to check the escape of dust, as even prescribed in the Coal Handling Guidelines issued by the GPCB on further areas while storage, transport or any related movement.
- (iii) Green belts should be developed around the place where the mineral is stored in a radius of atleast 15 m to check the dust pollution due to stronger breeze. The availability of the land for this green belt should be checked before the consent is given.
- (iv) Surface water (rains, streams, creeks etc) should be intercepted and diverted from entering the mining site to reduce potential for water contamination.⁷
- (v) Rain water should be captured through use of liners and pipes and stored in a tank to prevent the potentially contaminated water from entering groundwater or flowing off site. It needs to be ensured that the water is either used for sprinkling or reused for the company's purposes after treating this water.

⁴National Highway Authority letter (2015, March 27) Retrieved from <http://nhai.org.in/spw/CorrespondenceIssues/nhai%20l.no.2663..pdf>

⁵Overloaded trucks cause more pollution, accidents. (2014, April 29). *The Hindu*. Retrieved from <http://www.thehindu.com/todays-paper/tp-national/tp-newdelhi/overloaded-trucks-cause-more-pollution-accidents/article5958270.ece>

⁶Government to penalise truck overloading. (2014, July 28). *India Water Portal*. <http://indiatrtransportportal.com/government-to-penalise-truck-overloading-27688>

⁷<http://www.miningfacts.org/Environment/How-is-water-managed-and-treated-in-mining/>, Lottermoser, B., *Mine Wastes: Characterization, Treatment and Environmental Impacts*, 2012, Springer: New York

- (vi) Detailed studies should be conducted by a committee comprising of members from GPCB, atleast 3 local community representatives, local authorities to determine the optimum distance from farmlands and human settlements. Until such studies are conducted, distances as prescribed under the Coal Handling Guidelines should be used. The minerals should be stored at a distance of atleast 250m from farmlands and human settlements. Any other mining and related activities should be taken place at not less than 500m radius from any water body, historic places, religiously important places, railway lines, schools, universities, colleges, expressway both national and state ways, rivers, etc.
- (vii) Water sprinklers/dry fogging system should be installed in the mineral storage areas by the project proponents.

4. Others

- (i) There should compulsorily be dust controlling units installed in the processing units.
- (ii) All the mining rejects should be dumped in one decided place by following the prescribed guidelines that are issued by the State Environment Impact Assessment Authority (SEIAA) or the GPCB.
- (iii) It should be ensured that the mine operators all plant grasses, plants and trees in these dumps as per the condition that is given in the Environment Clearance condition prescribed by the SEIAA.

We are willing to share our experience in handling close to 10 cases in Gujarat related to mineral handling with the GPCB. We are also willing to work together with the GPCB in the framing of these guidelines.

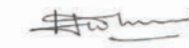
Sincerely,



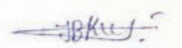
Bharat Patel
Program Manager



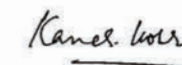
Vijay Rathod
Enviro-Legal Coordinator



Hasmukh Dhumadiya
Enviro-Legal Coordinator



Ker Jayendrasinh
Enviro-Legal Coordinator



Kanchi Kohli
Legal Research Director

annexure 2

Sample Complaint Letter

Shri .V. Thirupugaz
Development Commissioner (Rural Dev.)
Dr. Jivraj Maheta Bhavan,
Gujarata State
Block No. 103, Gandhinagar

Jadeja Natubha Rams
At. Lifra
Ta. Mundra
Dist. Kutch
Date:- 15/09/2014

Dear Mr. Thirupugaz ,

We the under signed people belong to Lifra village of Kutch district. Our village has a population of about 700, most of which are traditionally engaged in occupation of agriculture and animal husbandry. We are able to sustain ourselves and support our families through these occupations. Sir, we would like share with you that we have been using a piece of common land (called 'gauchar' locally) at Survey N. 141/ 5 for more than 50 years for grazing our cattle. This common land is critical for us because our animals graze here, we don't have to purchase fodder for them from the market. This reduces our cost and makes animal husbandry a livelihood alternative for us. In our village we have been maintaining peace and harmony, acknowledging and respecting rights of all communities of the village.

Sir, here, we would like to draw your attention to a recent development which has put our traditional occupation under threat. This common land has been allocated to private companies namely (1) Rajendrasinhji Svarajji (2) Gurukrupa mines and co. Ltd. on 25th October 2012 for mining black trap. Apart from being used for animal grazing, there is a check dam constructed by the Gujarat government and a natural water body for the use of cattle. Nine more mining lease proposals for common lands from Lifra village are pending to be considered. Once mining starts, we will not able to graze our cattle there and looking to survive, we may have to move to a new location. It means more than 70% of the families of our village will have to migrate .

Here we would like to share with you that we have already written to the Mamlatdar and District Collector but have not received any satisfactory response. While this problem was still looming large on us and we were looking to resolve it, we came to know of the judgment of the Supreme Court of India- Civil Appeal No. 1132/2011 @ SLP(C) No. 3109/2011 {arising out of Special Leave Petition (Civil) CC No. 19869 of 2010; Jaspal Singh & Others V/s State of Punjab & Others}. It states:

"In many states Government orders have been issued by the State Government permitting allotment of Gram Sabha land to private persons and commercial enterprises on payment of some money. In our opinion all such Government orders are illegal, and should be ignored."

"We give directions to all State Governments in the country that they should prepare schemes of eviction of illegal/unauthorized occupants of Gram Sabha/Gram Panchayat/Poramboke/Shamlat land and these must be restored to the Gram Sabha/Gram Panchayat for the common use of villagers of the village. For this purpose chief secretaries of all State Governments/Union Territories in India are directed to do the needful, taking the help of other senior officers of the Governments... Regularization should only be permitted in exceptional cases e.g. where lease has been granted under some Government notification to landless labourers or members of Scheduled Castes/Scheduled Tribes, or where there is already a school, dispensary or other public utility on the land."

After this Judgment, the office of the Development Commissioner, Gujarat, passed a circular on 4th March 2011 stating that powers of removing encroachments on common land are delegated to the Panchayats.

It should be noted that the above-mentioned leases were sanctioned in October 2012 when the Supreme Court Judgement had already been given in 2011. Hence, these leases have been granted without taking any acknowledgement of the Supreme Court Judgement. There has been non-compliance of the order of the Supreme Court and the circular from the Development Commissioner's office.

Sir, we request you to take action in the matter. We would also like to present before you our expectation that:

- already sanctioned mining leases of the Gauchar land in Lifra village be cancelled, and
- no more new leases or land allocations be granted for Gauchar land from Lifra village to private parties in future.

We sincerely hope you will pay attention to our concerns and take immediate action in the matter.

Thanking you

1. JADEJA NATUBHA RAMSANGJI — મ.વ.મ. નાટુભા રામસાંગજી
2. JADEJA NATUBHA HATHISANGJI — નાટુભા હાથિસાંગજી
3. JADEJA CHATURSINH VAGHJI — ચાતુરસિંહ વાઘજી
4. JADEJA BHUPATSINH MADHUBHA — B.M. જાડેજા
5. JADEJA MAHIPATSINH MADHUBHA — M.M. જાડેજા
6. JADEJA SVAROOPSINH SOM BHA — સ્વારૂપસિંહ સોમભા

C.C.:-

- 1- District Collector Kutch - Bhuj .
- 2-Mamlatdar Mundra , Kutch

Enclosed:

- 1- Satellite Image with Lat. Long. (Google earth)
- 2- Revenue Map with survey number
- 3- Copy of Memorandum submitted to the District Collector Kutch .

annexure 3

Sample Agenda for Paralegal Training

**NAMATI-CPR EJ PARALEGAL RETREAT
ENVIRONMENTAL JUSTICE AND DELIBERATIVE DEMOCRACY
5th to 9th February, 2017**

Day 1 (5th)

9:00-11:00: Introductions

11:00-1:00

WHAT HAVE OUR 2016 CASES TAUGHT US?

(Presentations by teams on achievements, failures, confusions and challenges)

1:00-2:00: LUNCH

2:00-4:00

ASSESSMENT OF OUR WORK: *(On cases; clients: sites and addressing the compliance gap)*

4:00-5:30

WHAT IS EJ? HOW IS IT DIFFERENT FROM ENVIRONMENTALISM?

5:30-6:30: Games

6:30-8:30: Movie

Day 2 (6th)

9:00-10:30

GROUP EXERCISE: UNDERSTANDING ENVIRONMENTAL JUDGEMENTS FROM THE SUPREME COURT AND THE NGT

10:30-1:00

WHAT ARE REMEDIES FOR EJ?

1:00-2:00: LUNCH

2:00-3:00

EJ CASE FORM CHANGES and CLIENT FOLLOW UP FORM

3:00-4:00

HOW TO GET FROM CASES TO POLICY?

4:00-5:00

GROUP EXERCISE: The government wants recommendations on Section 10 of the EIA Notification. Teams to prepare submissions
(The Minister of Environment should be happy with the content and the Chief Secretary must be convinced that it can be implemented)

5:00-7:00: GAMES

7:00-8:30: MOVIE

Day 3 (7th)

9:00-11:00

AISE TAISE DEMOCRACY: STATE-CITIZEN RELATIONSHIP: *Team Presentation*

11:00-1:00

MODELS OF SOCIAL ACTION: POWER AND AGENCY: *Team Presentation*

1:00-2:00: LUNCH

2:00-3:30

EXERCISE: Who are you inspired by? What is it about the person that inspires you?

3:00-5:30

MODELS OF DELIBERATION: HOW TO TAKE DECISIONS COLLECTIVELY?

5:30-7:00: GAMES

7:00- 8:30: MOVIE

Day 4 (8th)

9:00-11:00

GROUP EXERCISE: PARLIAMENTARY DEBATE ON LAW MAKING:

11:00-1:00

**INDIA'S ENVIRONMENTAL LAWS: A SHORT HISTORY
HIERARCHY OF LAWS**

1:00-2:00: LUNCH

2:00-4:30

UNDERSTANDING EJ WORK IN KENYA AND ZIMBABWE

4:30-6:00

MOZAMBIQUE'S HEALTH ADVOCATES

6:30 onwards: DANCE PARTY!

DAY 5 (9th)

10:00-11:30

Surprise session

12:00 onwards departures



The fishing jetty at Tadadi, Uttara Kannada, where the Karnataka government proposes to set up a large commercial port.