



PROTECTING THE COMMONS

ROLE OF GRAM PANCHAYAT(S) IN SECURING GRAZING LAND

Kutch shows the way forward



SETU ABHIYAN

Introduction

"As soon as the land of any country has all become private property, the landlords, like any other men, have to reap where they never sowed, and demand a rent even for its natural produce"

- Adam Smith



India is one of the most populated countries not only in terms of human population but the population of animals is equally high. The 'Preamble' of the Constitution of India describes India as Socialist' democratic republic that requires the state to protect and provide all basic means/facilities to its subjects. Does the subject include protection of animals, and if so, why?

The Constitution of India, under its Directive Principles of State Policy (DPSP) provided that the state shall provide protection to the animals under Articles 48, 48A and 51A (fundamental duties). The Supreme Court of India in **Animal Welfare Board of India V. A. Ngaraja**[2] held that

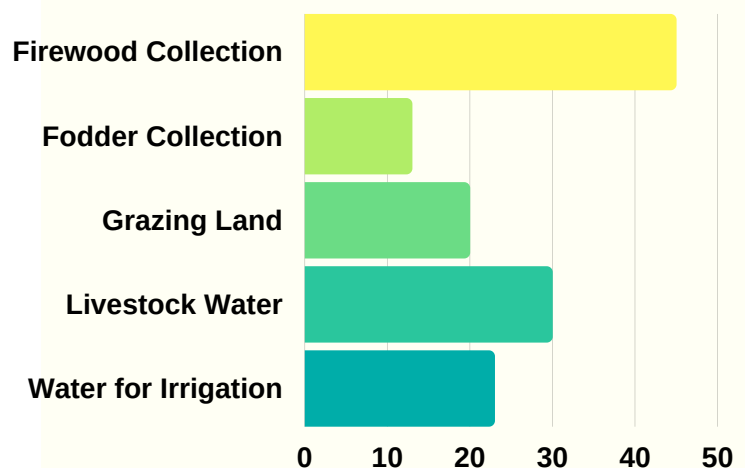
"The term 'life' under Article 21 must be interpreted expansively. As animals form a crucial part of human beings' environment, their rights must also be protected under Article 21."

India is also known as a village country since almost 70% of its total population lives in rural India. Kutch on the other hand, is one of the most ancient and unique regions in the country. The importance and attractions are manifold: its land, pilgrimages, diverse cultures, traditions, people in general and their relationship with animals.

For all practical purposes, community grazing land in India includes:

- Panchayat grazing land specifically demarcated for the purposes
- Revenue and other waste land commonly utilized for grazing land; and
- Degraded forest land illegally or legally allowed for grazing.

According to a study by National Sample Survey Office (NSSO)[1], the dependence of rural India on grazing land is listed as follows: *(Population in percentage)*



[2] (2014) 7 SCC 547

Legal Landscape for Grazing Land:

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Initially, we had a lot of gauchar land in Rampar. However, it remained only on paper since long. Finally, it came to the attention of the Panchayat and the process started.

The process however, was long and took some interesting turns that need to be discussed so that it becomes a common issue for all panchayats."

- Naranbhai Memabhai Dangar, Advisory Member, Gram Panchayat, Rampar

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Grazing land is not just a land issue/topic. It is much more than that. It is about food chains, the environment, animal and human rights and the existence of whole eco-systems. Grasses and grasslands have immense ecological and economic importance which needs proper attention and management through adequate policies. Sustainable grazing land does not only provide a healthy environment but also promotes the ecological and economically sound management of a large number of populations that are dependent on grazing in one way or the other.

Proper management of grazing land also benefits society at large, by ensuring the supply of food for animals and helping soil productivity, open spaces, healthy wildlife population habitats and social-economic stability in the community. In the era of rapid climate change, management of grazing land is the way forward to ensure a pollution free environment as grassland vegetation and soils are a great reservoir for organic carbon as well.

As per the resolution, every 100 head of cattle should be assigned 40 acres of land in the Northern region and every 50 head of cattle should get 40 acres of land in the Southern region respectively.

40 acres for every 100 cattle is the general rule and applicable to the whole of India.

Soon after independence, the Government of India felt the need for protection of animals and granted land for grazing on certain terms & conditions.

The Resolution passed by Government of India in 1952[3] listed out who will get how much land for the purpose of grazing (Gauchar).

Laws are generally for the betterment of living beings and it is more adoptable if it reaches the most vulnerable sections of the society. The Land Revenue Act deals with the issues related to land in India[4].

The approach of Government of India was to protect all living creatures within its territory. *Schedule XI* is specifically to provide powers to Panchayats. This includes Grazing land and matters relating to it. Industrialization and the entry of private players led to acquisition of land through various means for their private gain including grazing land.

The Apex Court of India in a landmark judgment of **State of Jharkhand & Ors. V. Pakur Manch & Ors.** [5],

2011 provided certain guidelines to be followed by all the states in India. Subsequently the *Animal Welfare Board of India under Ministry of Environment, Forest & Climate Change*, Government of India issued a circular [6] to all States/UTs through its Chief Secretary/Additional Chief Secretary (Revenue)

and requested States/UTs to furnish information about gauchar land for devising *Uniform National Policy* before 30th April, 2018.



[1] 1999

[3] Res. No. 7633/49 Dated 11.12.1952

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*The greater the power of Panchayats,
the better for the people."*

- Mahatma Gandhi

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What constitutes encroachment of grazing land?

Section 5 (1) [7] of Gujarat Panchyats Act, 1993 answers the above mentioned question as to what constitute encroachment or obstruction of grazing land. It basically states that anything within the jurisdiction or land within the boundaries of Panchayat i.e. *a) Grazing land, (b) without Panchayat's written permission builds or sets up that includes wall, fence, rail post etc. will be considered as encroachment or obstruction of the grazing land.*

The powers and functions of panchayats

The powers given to the Panchayats are not nominal but sufficient and of utmost importance that determines the fate of land for its use, inspection and removal of encroachment. Power comes with certain responsibilities. Thus, Panchayats are also responsible for its process of demarcation, inspection, removal of encroachment and so on. However, the important request by the Animal Welfare Board of India has not been materialized yet. The matter requires to be emphasized by the Ministry of Panchayati Raj so that the matter is taken seriously by all Panchayats.

Thus, the Panchayat has been given some powers and responsibilities to perform for the same. According to Section 5 (2) of the Gujarat Panchayats Act, 1993. Following are powers conferred on Panchayat(s):

- (a) Power to remove any obstruction or encroachment on grazing land and remove any crops not permitted on the given land i.e. grazing land or any other land not being private land, Panchayats have power even on unidentified that vests in no one private property including open land.
- (b) In case the land belongs to state government, Panchayat has to take permission of collector or any other authority authorized on behalf of state government. However, if there is any obstruction or encroachment the expense should be recovered first. Furthermore, a notice should be served before removal of obstruction or encroachment and only after 7 days after serving notice removal can be done.
- (c) The Act does not restrict Panchayat from giving permission for construction on certain terms & conditions as prescribed.
- (d) Panchayat's power is not restricted by the Act in respect of **Article 243(G)** of the Constitution (**XI Schedule**). It goes beyond that which means that any obstruction/encroachment even if coming under such provision can be dealt by Panchayat(s) in a manner prescribed in the Act.
- (e) The Act also empowers Panchayat to grant temporary grant of land for certain specific purposes prescribed such as ceremonies, by-lanes etc.

[4] Section 38: Gujarat Land Revenue Code, 1879

[5] Civil Appeal No. 436 of 2011

[6] No. 3-1/2017-18/Estt

[7] It states that "whoever within the limits of the Panchayat:

- (a) Builds or sets up any wall, or any fence, rail, post, stall, verandah, platform, plinth, step or structure or thing or any other encroachment, or obstruction; or
- (b) Deposits, or causes to be placed or deposited, any box, bell, package or merchandise, or any other thing, or;
- (c) Without written permission given to owner or occupier of a building by a Panchayat puts up, so as to project an upper storey thereof any verandah, balcony, room or other structure or thing",

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“The need and demand is or can be different from each Panchayat(s), thus we remain neutral and work whatever is best for all panchayats and their common goal.

Grazing land on the other hand, is not a new concept of course.

Legal provision is always there, it is a matter of will power, vision and demand of the representatives for their Panchayats that leads to initiate such projects”

- Phalgunbhai Nathubhai Ahir, a member of the Association”



Kutch District of Gujarat is one of the largest Districts in India in terms of area, covering **45,674 sq km** which comes around to **23% of total area of the state** i.e. Gujarat. Thus it also becomes home for various animals because of area and the kind of communities that reside and depend on animals as a part of their culture and also as a source of livelihood. With a significant population of cows, goats, sheep, buffaloes and camels, animal husbandry is the second largest industry in Kutch after agriculture.

There is a huge influx of street animals in Kutch on one hand and on the other hand, land is being allotted to various private companies & individuals by way of lease while other ways are also being utilized i.e. some people just occupy grazing land for their private gain.

Anjar - Kutch:

Anjar Taluka Panchayat Association

Anjar Taluka/Block in the Southern part of Kutch has 56 Panchayats and 66 villages under its jurisdiction. Anjar Block has **73006 animals** for which **29178 acres are required**, as per the rules prescribed by Government of India as well as Government of Gujarat.

At present, Anjar block has a **total 6214 acres** falling *short of almost 22964 acres* of grazing land.

The Anjar Taluka Gram Panchayat Association was **formed on 6 July, 2008**. There are 18 members in Anjar Taluka Gram Panchayat Association (hereinafter will be referred as Association).

The Association is represented equally by male and female members (9 members each).

Santibhai Ganjibhai Hirani is the President of the Association.

There are basically **4 main objectives** or areas of work of the Association, which are:

1. To identify and support collective agendas/issues of Gram Panchayats within the block;
2. To disseminate information on related policies and functioning of the Gram Panchayat
3. To advocate for policies that enable empowered functioning of the GPs. The subject matter related to policy making is pushed through Association and to fight for the rights; and
4. To collaborate and cooperate between Block and District level body.

The Association as mandated, meets every 2-3 months to discuss issues of different panchayats in the Block. The meeting held in February of 2020 discussed the issue of grazing land and Association agreed to take up the matter.

Accordingly, the Sarpanches of some of the Panchayats came up with the demand which was then forwarded to the Taluka Development Officer and Mamlatdar under Association's letter pad.

10 Gram Panchayats, on the behalf of Anjar Gram Panchayat Association submitted joint application to Block Development Officer (TDO). All 10 Gram Panchayats passed resolutions for the record, demarcation and demand of grazing land in the general meeting of their respective Gram Panchayat(s).



The Process:

The issue was further discussed in the general meeting of Gram Panchayats, facilitated by SETU. The Association decided to have a data base of grazing land in their block and follow the rules that require 40 acre land for 100 cattle. Around 10 Panchayats passed resolutions in their respective Gram Panchayat and gave common application to Taluka Development Officer (TDO) and Mamlatdar under Association's letter pad.

The letter had **three common demands**

(1) record of the grazing land, (2) demand for required grazing land, and (3) demarcation of the same.

“In one of the Governing Board meetings in February 2020 of the Gram Panchayat Association, the members had a serious discussion on the need to demarcate their grazing land and the consequences; we then sought the guidance from SETU members to understand the legal provisions and how to go about it”

- Shyamjibhai Irani

The Result

Since the concerned Panchayats got the support of Association, Taluka Development Officer, Mamlatdar, concerned authority had to expedite the matter and not only acknowledged but also provided help in the demarcation of grazing land for the villages mentioned in the application.

“Now we have data on the number of cattle in Anjar taluka as well as the specified lands for grazing land at least for these villages.

Rampar village on the other hand, started the work of demarcation and ensures that the land has boundaries so that there is no encroachment anymore”, says Phalgunbhai.



RAMPAR

Case Study 1

Rampar Panchayat is the prime example of a model that can be followed in the region in dealing with matters relating to grazing land. According to Naranbhai, Advisory Member, Gram Panchayat, Rampar village, *“the will power and unity is the key to success”*. The role of the Sarpanch and Anjar Taluka Gram Panchayat Sangathan is extraordinary in ensuring land for this cause.

“This is a great precedent in terms of securing grazing land, its demarcation and removal of any encroachment whatsoever. This in turn will ensure sufficient food, water and shelter to the animals in the village” says Narenbhai.



Rampar Panchayat has **551 cattle** for which **220 acre** land is required. The process of identifying grazing land has started as the official circular mandates the same. There is a well in the village that has been kept specifically for animals. No other person can utilize that water for any other purpose(s). Water is an issue which has been tackled efficiently by the Gram Panchayat that connected its well through pipes to all gauchar land where cattle and others animals drink water. The structure of the water pond is such that both small and big animals can drink water.

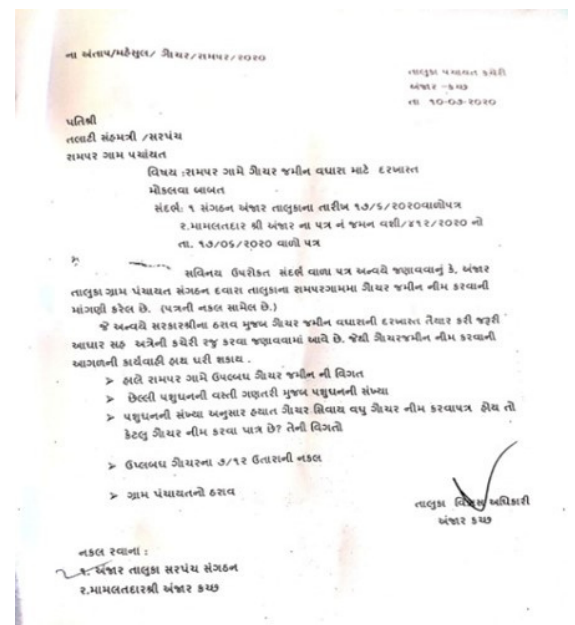
The village has established a Gaushala by forming a trust known as ‘**Shri Murli Manohar Sarvajanic Trust**’ that collects funds from the village which is utilized for the welfare of cattle of the village collectively. It also provides loans to people and collects interest from it which again becomes the fund of the trust. In this way, the Panchayat has collected almost 2 crore rupees.

The Panchayat, along with the Trust have taken some major steps for the welfare of cattle. There are two godowns that have stocked fodder for the cattle that would be used in future if there is any scarcity of fodder or grass in the region. The Gram Panchayat has also built sheds and planted trees so that there is enough shade in the afternoon.

The Rampar Gram Panchayat has shown the way and inspired many other Panchayats in the region to take a bold step to conserve their own natural resources.



Due to these works and the constant push through the Association, Government officials have now issued circulars to all Gram Panchayats to identify and secure the grazing land.



BHIMASAR

Case Study 2

The demand for grazing land by the Association along with concerned Panchayat(s) led to a boost in the energy of Gram Panchayat(s). Bhimasar village on the other hand, was actively working for the welfare of cattle even before the resolution was passed by Association and various Gram Panchayat(s). Land record, data analysis and demarcation are very crucial steps. But the actual action plan is reflected on the ground when different Panchayats take steps to secure and develop grazing land in their respective Panchayats.

There are **1990 cattle** in Bhimasar for which **796 acre** land is **required**. The process has led to demarcation of **350 acre** land so far.



Demarcation of land and plantation of trees in Bhimasar.



The collaboration between various stakeholders has led to some important improvements in the area of grazing land in Bhimasar. Gram Panchayat, Government officials, organizations and people of Bhimasar have contributed in their respective capacities.

The people of Bhimasar took this initiative very enthusiastically and supported Panchayat in whatever way they could. When the work started to have a boundary for grazing land, people gave their tractors, stones and also supported through their labour. The work done by **Bhimasar Gau Sewa Samiti** is crucial that ensured the plantation of trees and grass for animals. One of the interesting ways by which Samiti receives fund is 'birthday donation'. Since last one year people have been donating money for the welfare of Cattle on their birthdays. The person donating the amount posts through social media platform. The Samiti then acknowledges their contribution and circulates the information through their whatsapp groups.



A house under construction for the family.

The demarcation of the gauchar land will ensure its security and protection from illegal encroachment and remain as a proof for the Panchayat to take measures in future. Panchayat also supported the idea of planting more and more trees and grasses to ensure enough fodder as well as shade for the animals in the Panchayat.

More than 300 trees are planted in Bhimasar grazing land. For the protection of these trees, a family, having four member have been given job cards under the MGNREGA scheme that will ensure the livelihood of the family as well as the protection of trees for cattle.

BHIMASAR

Case Study 2



Trees planted by and under the care of the family.



The family working on gauchar land.

More than 300 trees are planted in Bhimasar grazing land. For the protection of these trees, a family, having four member have been given job cards under the MGNREGA scheme that will ensure the livelihood of the family as well as the protection of trees for cattle.

Once the tenure under the said scheme is over, the family will be given extension (through any scheme applicable to them) so that they can continue working and protecting the land.

The Samiti is also building a small house for these workers to live there and continue their work.

Conclusion and the way forward:

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Gram Swaraj or Village rule was the dream, said Mahatma Gandhi who believed that power should devolve to the panchayats, rather than having a centralized policy making body in the cities.

”

The Constitution fulfilled Bapu's aspiration through 73rd Amendment that gave Panchayat(s) a huge power and responsibility to perform.

“

Panchayat's power with respect to grazing land is sufficient to demarcate and secure its land from any form of encroachment or obstruction.

However, the vision, will power and support from different stakeholders are the key to successful conservation.

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Land is often seen as mere properties, but grazing land is beyond that; it involves livelihood, culture, health, environment and animal welfare. It is high time that Panchayat(s) and people of every village are aware about the importance of grazing land. The issue taken up by Anjar Gram Panchayat Association, individual Panchayat(s) and some organizations in Anjar shall continue and reach other blocks, districts and the entire country.