

Tenure rights and fishing communities in Maharashtra

Adoption of “Voluntary Guidelines for Securing Sustainable Small-scale fisheries in the Context of Food Security and Poverty Alleviation (VG SSF)” in 2014 was an historical move to strengthen small scale fishing communities worldwide. It gives guidelines over responsible governance of tenure and resource management as one of its foremost component. The governance of tenure is a crucial element in determining if and how people, communities and others are able to acquire rights, and associated duties, to use and control land, fisheries and forests. People can be condemned to a life of hunger and poverty if they lose their tenure rights to their homes, land, fisheries and forests and their livelihoods because of corrupt tenure practices or if implementing agencies fail to protect their tenure rights.¹ In India, access to sea, its fishing resources, costal lands have always remained competitive spaces where rights of poor and marginal fishers have infringed upon by industrial interests whether it is for bigger mechanised boats or for tourism and industries set up by both government and private players. This document looks in to tenure rights issues of coastal communities in Maharashtra a western coastal state of India through two case studies one in Juhu Moragaon an urban fishing village in suburban Mumbai and second of legal triumph of fishing villages in Raigad district against project activities of JNPT, ONGC and CIDCO.

There are various state level, national level acts and regulations which refer to and applicable to fishing communities in Maharashtra. Apart from that there are international instruments which India as a country ratified and thus made obliged to follow codes and conducts given by these international instruments. United Nations Convention on the Law of the Sea (UNCLOS) 1994, Code of conduct of responsible fisheries (CCRF) 1995, Voluntary guidelines on the responsible governance of tenure of land fisheries and forests in the context of national food security (2012), Voluntary Guidelines for Securing Sustainable Small-scale fisheries in the Context of Food Security and Poverty Alleviation (VG SSF) 2014 are important international instruments related to fisheries tenure rights over sea and costal land. Maharashtra has marine fish regulation act 1991 for governing fisheries operations in the state, It also has state coastal zone management authority governing costal zones of the state, there is mangrove cell under forest department, environment protection act 1986 and biological diversity act 2002 also applicable to fisheries while all this instruments in place fishing communities in the state has yet to achieve legal status over their costal land and water resources.

¹ FAO,2012,Voluntary guidelines on the responsible governance of tenure of land fisheries and forests in the context of national food security

Being a customary right it is not always recognised by government and private players competing for fisheries resources. Voluntary nature of international instruments, gaps and loopholes in existing state instruments have always impacted adversely to small scale fishing communities. CRZ notification 1991 was beneficial to fishers and that's why constant efforts have been made to change it. It has undergone some 25 amendments in two decades to dilute it for development interests.

Following two case studies depicts the impact of developmental pressures on fishing communities in urban and rural scenario, fishers struggle in the context of tenure rights over sea and coastal lands. Juhu Moragaon case gives details of urban planning process and customary rights of fishing communities on the land on which they are settled through the history of reclamation and migration. Fishing villages of Raigad district of Uran tahsil has fought against major industrial player like JNPT and ONGC on the accounts of their customary fishing rights and environment degradation again aggravating their livelihood loss.

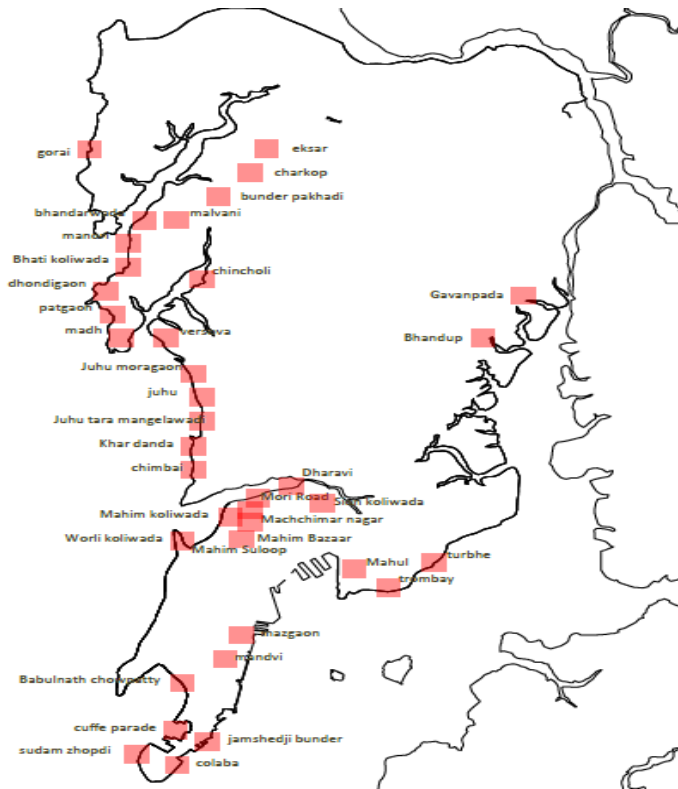
Juhu Moragaon: a urban fishing village in Mumbai

Coastal land rights of fishing communities in Mumbai: current scenario

Mumbai being a strategically important port town since ancient times has well documented historical records. Mumbai is the story of reclamation and connecting seven small islands to form what now called as island city. Fisherfolk are considered as its original inhabitants evident from the fact that city's nomenclature is based on goddess of fishers *Mumbadevi*.

Marine fisheries census 2010 done by CMFRI enlists 30 fishing villages in Greater Mumbai which comprised Mumbai city and Mumbai suburban district. While according to survey done by fisheries department of Maharashtra in 2003 there are 33 active fishing villages in Mumbai Metropolitan region which includes part of thane and Raigad district. The census classifies these villages as *urban* and rural, and marine and estuarine, and identifies 23 active fishing villages in Greater Mumbai, of which 15 are urban-marine and 8 urban-estuarine.² Following map prepared by community members and MMKS as a part of campaign run by YUVA and other CSO's on planning for Mumbai shows there are 38 urban fishing villages in Greater Mumbai.

² MMKS recommendations on DP prepared with the help of CSO's in our city our plan campaign



Source Rajesh Mangela

These urban fishing villages have fallen prey to urbanisation and pressures on resources it comes up with. There is no space for expansion in existing fishing villages and now fishers are in minority compared to others migrants who settled in and around fishing villages in the process of urbanisation. Invitation for migrants to rent out place in fishing villages was indirectly forced rather than voluntary as fishers lost their near shore livelihood to pollution, projects like reclamation of land for construction spree, loss of mangroves, transport nodes like bandra worli sea link. To supplement their income they rented part of their places to migrants.

In the case of Worli koliwada/worli urban fishing village, according to a website³ created by Worli fishing village residents, the fishing village land (*Fazindari* land) was held in British regime under Pension Tax Tenure, first during 1870 and thereafter in 1923 through registered documents. As per Bomaby city (inami and special tenure) abolition and Maharashtra land revenue code amendment 1969 *Fazindari*, i.e. Inami or Superior Holdership, of BIT and thereafter their successor BMC was

³ <http://worlikoliwada-oa.com>

abolished. Ownership of land remains with "Nau Patil Jamat and Gaokari Estate Committee" a apex customary (registered) community organisation of the Worli village.

In another case of demolition of Sion Koliwada, this caught widespread media attention. This was the place given to fishers by Bombay improvement trust in 1939 to settle while reclaiming their fertile creek land. Sion being the heart of island city has massive real estate demand for both residential and business purposes. Small village amidst the skyscrapers and shopping malls was a sore fruit in the eyes of developers looking for land and real estate potential. Finally sahana builders while corrupting some of the community members within Sion koliwada managed to get 70 percent consent for redevelopment project. This is the classic case of civic corruption where consents were given by dead people and signed in English by illiterate woman. When residents refused to evict the koliwada for settlement with small flat in building, it was demolished by BMC with full police force while arresting number of residents for rioting under the power of developers pressures. On one hand British and earlier administrative bodies protected tenure of its original inhabitants while so called independent state administration coerce power to evacuate same people who didn't have ancestral village or roots to turn to, Mumbai was the only place where their generations prospered only to lose their vibrant cultural identity associated with their village to real estate pressures. Faces of youth who fought ardently while demolition are charged with numerous criminal offense now both their career and ancestral roots taken away faces the worst fate in the city of dreams called Mumbai. Places like Juhu Moragaon koliwada is resisting such development pressures and have survived through it for a long time now. Following account give details of Juhu Moragaon struggle to protect its land rights.

Juhu Moragaon is a fishing village situated amidst the hustle bustle of Juhu, a suburban area famous for economical elites of Mumbai and Juhu beach. Now if one visits this fishing village, it look like slum with narrow road barely enough to walk for a person instead of spacious houses and common community lands usually found in urban fishing villages in Mumbai. When you go further nearly touching to the creek there belongs old houses of *mangela* fishers mainly known as *mangela wadi*, they have comparatively spacious houses with some having built up terraces giving backside view of creek and illegal constructions on mangroves.

There is a one person who is contesting this space for 25 years now, he is also first graduate in his community, tried his hands at law degree only to help him in legal battle against politicians bureaucratic nexus, also a driving and managing force of only fisheries cooperative society in village and have represented his community in various national and local level forums and policies like CRZ 2011, coastal road and development plan of Mumbai. Rajesh Mangela also a post office servant is

battling to save his fishing village where his villagers are minority now caught in influx with other communities which have also settled around *mangelawadi*. Private developers eyeing on high land development potential have tried to buy out most of the land by becoming one of the owner of house even before state government came up with slum redevelopment scheme famously known as Slum rehabilitation (SRA). Residents of Juhu Moragaon village fought ardently against SRA scheme which was nothing but clever scheme serving builders interests to provide free houses for slum residents while getting extra Floor Space Index (FSI) or Transferable Development Rights (TDR) to sell in commercial real estate market. Various studies showed failure of scheme where people after getting house sold it and again started to live in new slum, new buildings made under SRA scheme were inadequate to provide even basic facilities. Fishing community of Juhu Moragaon has many reasons to oppose it, first they were staying in that place for generations and had records of assessment tax receipts of 1950's and 1960's unlike migrants living in newly formed slums out of choice. Secondly fishing community having distinct culture and occupation profile requires them to have horizontal housing with common areas like beach space, common courtyards, community hall, cooperative society; net mending and fish drying were the needs which was unheard of in SRA policy.

Fisherfolk of Juhu Moragaon recall a past when creeks abundant with crabs and fish was their main livelihood, currently in the events of land grabbing, mangroves destructions creek has become now a polluted canal. With the loss of traditional livelihood there are other challenges to be fought on like their fish drying space, net mending and boat parking space is constantly under threats by illegal infringement of projects like beach beatification, private bungalows and resorts, recreational activities without recognising fisher's rights over the space. Kamla Raheja Vidyaneehi Institute of Architecture (KVRI), YUVA has helped young activists like Rajesh Mangela to formulate suggestions and objections in ongoing Development Plan (DP) of Mumbai. Development plan which is being formulated by DP division of Brihanmumbai Municipal Corporation (BMC) gives a blueprint for city's infrastructure and management. When government authority enforces any policy or plan without peoples participation in contentious spaces like Mumbai it is bound to face with strong resistance thus delaying and costing the procedure. Same has happened with DP when BMC received several corrections in exiting land use maps prepared by their consultants. Following map shows some of the corrections suggested by fishing community of Juhu Moragaon as their basic amenities depicting their identity and culture as fishers were not shown in the existing land use map (ELU).

BMC of course has not considered provisions in CRZ for fisher's settlements while mapping ELU or PLU, history shows that it even disregards to consider heritage and customary traditions and culture of fisherfolk by trying to get it under SRA scheme by declaring it as a slum. Maharashtra state has not yet approved state coastal zone management plan which was mandated by state coastal zone management authority (SCZMA). Even boundaries of fishing villages in Mumbai have not been mapped as responsibility lies with who is again a question. Revenue department of BMC or fisheries department or SCZMA should be responsible as a highest authority. Various civil society organisations have resisted DP for fishing villages and *gaothans* as there is not yet approved CZMP for the state and boundaries of village are not yet marked. Fishers' organisations like Maharashtra Macchimar Kruti samittee (MMKS) has constantly demanded for title deeds of lands on which fishers houses are settled and declare them as CRZ III areas and legally reservation of spaces required for ancillary fishing activities. Even in development control regulations for the city there are only two points referring to fishing villages there are no separate rules or housing policy for urban fishing villages or *gaothans* considering their historical relation to the city and distinct identity and culture. In the lack of policies governing development of distinct parts of city like *gaothans* and urban fishing Villages, they themselves have from time to time submitted proposals on what kind of planning and development they want in their villages.

MMKs have submitted following suggestions to DP department regarding development of urban fishing villages:⁴

- Nomenclature and Classification of Urban fishing villages and coastal commons

To differentiate urban villages/*gaothans* from fishing villages, this should be named as urban fishing villages, also while demarcating primary activity it should be specifically mentioned fishing related primary activity in order to be more specific and to accommodate policies, regulations and provisions specifically pertaining to the coastal commons or areas concerned with livelihoods of coastal communities dependent on the primary activity of fishing and other related activities.

- Mapping of urban village boundaries, to be Demarcated as CRZ III areas

As a criterion for boundary demarcation the urban fishing village needs to be understood as a network of activities and functions rather than simply a housing settlement. The boundaries of the urban fishing villages should be verified and accurately and clearly demarcated in consultation and with the participation of the local communities and residents of these villages so as to eliminate discrepancies between their demarcation in the ELU and their demarcation as CRZ III as mandated

⁴ Rajesh Mangela, document prepared with the help of campaigners, KVRI and YUVA

by the CRZ regulation.

- Community control and autonomy over urban village land use

The entire area designated as CRZ III or Urban fishing village ought to be under community control. Land within the settlement areas of Gaothans or Urban villages in Mumbai are usually commons, controlled by the village community, although individual buildings or houses in the village may be privately owned. The resident community could form a cooperative that will retain control and autonomy over urban village land use and will undertake the management of common village lands, and the sale or transfer of ownership of any part of the land to developers or private owners should be restricted.

- Self-development of urban villages

Conservation as preservation of the existing urban village fabric- repair and reconstruction rather than redevelopment, urban fishing villages have played a significant role in the shaping of the city's history and its past and present landscape and are an example of living heritage. There is a need to evolve frameworks for the sustainable and sensitive development of these urban fishing villages which allow a continuity of traditions with progressive change through time. In most cases, minor improvements or renovations will better living conditions. Instead of large scale transformation or complete redevelopment, the approach of conservative surgery and improvement would be more appropriate in case of these settlements as it would seek to retain wherever possible the existing urban fabric and morphology, and preserve significant resources and open spaces for the use of the public and community. This approach of reconstruction or repair as opposed to complete redevelopment is supported by the CRZ 2011 Notification which states that

“Reconstruction and repair works of the dwelling units, belonging to fisher communities and other local communities identified by the State Government, shall be considered and granted permission by the Competent Authorities on a priority basis, in accordance with the applicable Town and Country Planning Regulations.”

- Height restrictions and other DCRs

In many of the villages the existing houses have already surpassed this height restriction of G+1 and a provision for further vertical expansion is required to accommodate growing families. At the same time there is a need to control and regulate this growth for improving the living conditions within these settlements by introducing building controls and regulations specifying building heights, alignments and setbacks to make space for infrastructure and services. The Existing Development

Control regulations for Mumbai provide a blanket F.S.I of 1 for the suburbs including the gaothan areas and do not suggest adequate urban design guidelines to conserve the existing morphology of the villages. This has resulted in haphazard unregulated development in these areas. It is recommended that as opposed to a blanket F.S.I for these gaothans appropriate urban design guidelines for these be introduced in the DC regulations to conserve the existing urban fabric and the height restriction for urban fishing villages be increased to G+3 to allow for future growth.

- Proposal for village expansion policy in the form of reservation of nearby vacant lands or government lands

Provisions are made in the section 18 of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947 for acquiring land for extension of Gaothan. In Mumbai which is an urban context it is seen that in most cases villages are engulfed by surrounding urban development leaving no space for expansion. This needs to be addressed by making the gaothan expansion scheme applicable to urban areas specifically in the case of urban fishing villages. In cases where vacant land adjoining the villages is not available, the reservation of nearby vacant lands or government lands in the D.P to house growing families and additional numbers is recommended.

- Protections of other communities within the Urban fishing villages / Koliwadadas

All the zones occupied by the communities which were originally or that have later become a part of the village should be considered within the boundary of the village and these communities will be provided housing within the village, preferably where they reside presently.

Costal land and tenure rights of fishing communities of villages of Raigad district: case of legal triumph

Juhu Moragaon village resides amidst Mumbai suburbs mostly facing struggling for residential land, fish ancillary activities and just urban planning following case study based on secondary data depicts landmark judgement in favour of fishing communities of Uran and Panvel tahsils of Raigad citing customary fishing rights and environmental impacts of JNPT port, ONGC and CIDCO. Study by dr Parasuraman on displacement and rehabilitation of families under JNPT shows, When the City and Industrial Development Corporation (CIDCO)⁵ a government body started acquiring land for the

⁵ The City and Industrial Development Corporation (CIDCO) was a body created by the government for the development and administration of New Bombay. The primary tasks of CIDCO involved acquiring, developing and disposing of land throughout the project area.

Nhava Sheva Port Trust (NSPT), later renamed as JNPT in 1982, the two *koliwadas* (Hanuman *koliwada* and Navin Sheva *koliwada*) were completely displaced. Compensation was given as per land acquired which doesn't satisfied rehabilitation needs of fishers. According to Parasuraman, compensation in cash usually does not ensure the replacement of the lost land. The likelihood of landlessness remains greater for families which have only customary rights rather than formal title on their land.

Oil and Natural Gas Commission (ONGC) also acquired land in Uran tehsil way back in 1970 - 71. While this did not affect the villages directly, they laid pipelines in 1978 which were not properly covered resulting in sedimentation of mud and blockages of tide water. This inadvertently shrank the fishing areas available to the *Kolis*. When JNPT started construction, it reclaimed land by closing smaller creeks at Bepada and Sonarikhari, in Uran *tehsil*, thus resulting in further blockages. Moreover, the direction of the port was such that it obstructed tide times and levels drastically. This was further accentuated in 1999 when the only available creek's mouth was reduced because of berth extension to 125 metres. With the mounting pollution that the villagers complain of frequently, these diverse processes have adversely impacted the hydrodynamics of the sea in turn affecting the coastal environment, effectively reducing fishing time and quantity of the catch and seriously threatening the livelihoods of the *Koli* community in question.⁶

Paramparik Macchimar Bacho Kruti Samittee approached National Green Tribunal (NGT) of western bench Pune for seeking various reliefs on the grounds of destruction of their livelihoods and also damage to coastal ecology in Appln. No.19 of 2013. In this application they sought either livelihood opportunities in the form of fish ponds for affected 1630 traditional fishers families or Equal compensation amount of Rs.32,542/- hectare common tidal land or 20 % of land lease or 15 % developed land, employment and training for individual from affected families, free medical and educational facilities. Above said judgement recognised customary right of fishers as against the arguments made by JNPT, ONGC that fishers don't have right over sea or coastal land. Judgement says, In the outskirts of Mumbai, there were/are number of hamlets/pockets of lands/islands occupied by the traditional fishermen for their residences. They mostly reside at Sheva, Nhava, Gavhan, Belpada, Sonari, Jaskhar, Panje, Dongri, Funde, Uran and Elephanta. Around these small localities there are creeks and water bodies of Arabian Sea, where spawning of fishes and feeding grounds are located. These areas are enriched by surrounding mangroves. The coastal dynamics provide adequate eco-system for sustainability of aquaculture and biodiversity in the area, traditional fishermen used to earn their livelihood by catching stock of fishes in the traditional nets

⁶ Unpublished report by Bhattacharya Rakhee of Rajiv Gandhi institute of contemporary studies

in the area. Of course, they have no property right over the seawater. It was only a customary fishing right available to them, which they had inherited for generations together.

Fishers approached human rights commission over JNPT activities jeopardising their livelihood interests. NGT in its landmark judgement forced concerned bodies to pay compensation package to fishing families of affected villages citing "In our opinion, there is potent threat of environmental damages caused due to expansion of the Port activities of JNPT and development activities of CIDCO. The spillage of oil by faulty maintenance of the pipeline also has contributed to loss of environment and ecology. This matter, therefore, requires grant of interim relief. We are of the view that by way of interim-measure JNPT shall deposit an amount of Rs.20 Crores and ONGC shall deposit amount of Rs.10 Crores, with the Collector, Raigad, within period of four (4) weeks hereafter." It also gave directions to authorities for ecological restoration of place.

While there are rehabilitation and resettlement policies in place experience after displacement of such projects for locals have always been negative. In case of JNPT, displaced people still waiting for employment in above mentioned project, houses and other facilities. While small cash compensation being given it does not necessarily provide just means for cultural, economical and livelihood loss, it further aggravates burden of resettling in new place and achieving prior economic strength in uncertain conditions. What marks NGT judgement is it recognised customary rights of fishers of fishing and livelihood loss caused by projects, thus making them pay for ecological restoration and compensation for losing livelihood for fishers. This judgement can be used by fishers in other districts currently engulfed by different projects like ONGC in Satpati, RCF in Thal, ISPAT in dharamtar Khadi affecting fishers livelihood and costing gravely to ecology. Even in Mumbai urban effluents, plastics, solid wastes is daily nuisance to fishers, many times water from water treatment plants is being thrown in sea without treatment as seen in case of many factories and municipalities have responsibility towards aquatic ecology and people depended on it for livelihood. Many such cases can be framed using this judgement to get justice. This judgement may be start of the long process of putting environment costs on concerned bodies and just settlement of formal and customary claims made by locals while planning and executing development projects.

Conclusion

Though various acts and regulations are in place in the state, situation of fishers is worsening day by day, their life has become a constant struggle and long legal battles whether in rural or urban scenario as shown by above case studies. There needs to be immediate policy attention given on securing tenure rights of fishing communities over land and coastal resources. There were attempts made from MoEF to prepare a draft of "The Traditional Coastal and Marine Fisherfolk Protection

Rights Act 2009” but it was never carried forward by concerned stakeholders. Currently there is no state or central law specific to fisheries recognising customary tenure rights of fishing communities. State of Maharashtra even lacks approved SCZMP thus making it difficult for fishers to protect their rights from development pressures.

Marine fishing regulation act though mentions small scale fishing communities preferential access over territorial waters does nothing to implement or monitor it. Even act itself it not strong focusing mainly on administrative issues rather than fisheries management and protection of vulnerable groups like women and small scale fishers. Furthermore there are several departments concerning aquatic resources and fishers like Maritime board, forest department, MCZMA, Maharashtra fisheries development corporation, revenue department but rarely there seen a integrated approach in policies and management of such closely related departments in the state of Maharashtra. It is evident from the mapping of boundaries of Koliwadadas in Mumbai where three different bodies trying to do one task and still not able to finish it.

Urban fishing villages have completely different set of issues than rural fishing villages. Process of Mumbai DP shows, people knows better of their neighbourhood, their history, requirements thus can be excellent planners if given opportunity as Juhu Moragaon and other urban fishing villages has come up with proposals for self development which off course doesn't allies with private developers interest vested in land/real estate potential. Mumbai need strong policy measures to protect rights of distinguished people like fishers of Mumbai without destroying their culture and way of life and where necessary boosting their existing or related livelihood by implementing innovative schemes like koliwada tourism, food and festivals depicting way of life.

Whether urban or rural fishing villages, struggling with issues of development, displacement or livelihood loss, with mounting globalisation forces it was observed youth, women and children of these fishing communities have become more dependent on traditional fishing business for livelihood whether in fishing or fish retailing. Just policy measures needs to be implemented to protect their traditional rights over waters and land providing them livelihood and settlement security.