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Unpacking the demand for Community Forest Rights in the Banni Grassland of Western India

1. Introduction

“Land that is left wholly to nature, that hath no improvement of pasturage, tillage, or planting, is called as indeed it is, waste; and we shall find the benefit of it amount to little more than nothing.” Following such a Lockean perspective (quoted in Whitehead, 2010), pastoral commons have often been thought of as “empty,” “underutilized,” “unproductive” and “waste” for not having any permanent settlements or intensive agriculture, difficult to track and tax (Wunder et al, 2013). Operating at an entirely different register from the local populations that inhabit and use such spaces (Brara, 2006), this understanding has promoted sustained efforts on the part of the state to enclose pastures, sedentarize pastoralists and privatize land holdings over the past century.

The food, fuel and financial crises experienced globally since the 2000s have exacerbated the pressures on land, and accelerated the large-scale acquisitions of commons for industry, commercial agriculture and biofuel production (Balehegn, 2015). These land deals have bypassed the consent of the indigenous communities that occupy and use the lands, making them susceptible to exploitation (Behnke & Freudenberger, 2013). Such instances of “land grab” have drawn our attention to the immediate need to formally recognize and provide security of tenure to the 200-500 million semi-nomadic and transhumant pastoralists present worldwide (McGahey et al, 2014) that serve as custodians for and derive sustenance from such resources.
Extensive grazing systems over large tracts of land allow pastoralists to make the most of the scarce energetic resources found in variable non-equilibrium environments, producing useful proteins such as meat and dairy, as well as other products such as wool, leather, etc (Damonte & Glave, 2016). Pastoralists follow highly complex and flexible indigenous land access and management arrangements to support livestock mobility, and thereby their livelihood (ibid.).

Pastoralists usually enjoy community rights over land, mixing elements of common property rights-based land tenure systems and exclusive ownership and a mix of people regarded as either primary or secondary users that have “concurrent” and “overlapping” rights (Wood, 2013), and can use the resource by seeking permission (Pearce, 2016). Such management practices involve rules and norms that communities devise and uphold to regulate how their lands are acquired, owned, used and transferred (ibid.). Misunderstanding of these customary laws has left pastoralists vulnerable to the usurpation of resources.

Recognition of the dispossession experienced by pastoralists in recent years has awakened civil society organizations (CSOs) to the need to protect and secure their rights to resources. This has mobilized international organizations, NGOs, community associations, and governments to enact policies and legislations enabling pastoral communities to enjoy rights of ownership, access and use over their resources. While the thought and intention behind such lobbying is to secure the sustained wellbeing of communities and the environment, the instruments, mechanisms and processes involved in securing de jure rights for the communities are affecting them in new and different ways.

Drawing on fieldwork conducted in the summer of 2015 with pastoralists in the Banni grassland, in the Kachchh region of the Western Indian state of Gujarat, this paper, firstly, demonstrates similar forces of dispossession experienced at the local level and the community’s response of claiming rights over the grassland. Secondly, it aims to further our understanding of these multifaceted processes by presenting a nuanced view of the changing intra-community micro-political landscape generated through the processes of claim-making. Consequently, it alerts us to the politics
associated with commons management and the impact of changing land rights regimes on the political economy of common pool resources.

Post this introduction, the second section of the paper attempts to give an overview of the changing political economy of Kachchh and land regime in Banni in broad brush-strokes as a background to the case of increased Forest Department control and expropriation of resources described in section 3. The third section goes on to describe the pastoralists’ demand for community rights over the grassland as a response to the state's proposal. The fourth section unpacks the three main socio-political changes observed in the community, pivoted on the claim over resources, which, though not unusual, often remain ignored in blanket narratives of the merits of securing indigenous rights.

2. Background

2.1 The shifting political economy of Kachchh

Long ignored on the “economic map” of Gujarat (Tambs-Lyche & Sud, 2016), Kachchh was “deliberately turned into a corporate business opportunity” after it experienced an earthquake in 2001, leveraging on its vast stretches of sparsely populated semi-arid lands (Menon et al, 2014). Encompassing a desert in the North and East, India’s largest single district, with a total landed area of over 45,000 sq.km., Kachchh has a population density of only 33 persons per sq.km. (compared to Gujarat’s average of 258.5 persons per sq.km: Bharwada & Mahajan, 2012), ideal for new industrial investment. The rise of “New Kachchh” (Simpson,
“like a phoenix” (Khan & Damor, 2016) from the ashes of the quake has been made possible by various incentives scheme such as the “Kachchh Package,” which gave heavy tax concessions and subsidies to large industries, and the Gujarat Special Economic Zone Act, 2004, which made it easier to establish large industrial belts.

Today with over 12 SEZs, 13 Industrial Estates and 3 Industrial Parks, Kachchh accounts for nearly 40% of the total industrial projects currently under implementation in Gujarat (Bharwada & Mahajan, 2012), making it the “engine of the state’s double-digit growth” (Simpson, 2007). Though economically impressive, this growth does not auger well for the pastoralists of the state that account for 8-10% of its population. In fact, a recent survey conducted by the Maldhari Vikas Sangathan, an association of pastoralists in Kachchh, showed that 95% of village pastures in the district have been encroached upon by industry (Mishra, 2015). Additionally, ‘wastelands’ that often serve as silvipastures, “lifelines” for the pastoralists, were opened up for privatization by industry and competent farmers for cultivation of horticulture and biofuel trees using modern technology in 2005.

2.2 Introducing Banni

At 2497 sq.km, Banni accounts for 45% of permanent pasture and 10% of all the grazing grounds available in Gujarat (GEC, 1998). Once known as Asia’s largest grassland, Banni is known to have had close to 50 different species of edible grasses and shrubs (Bharwada & Mahajan, 2012). The pastoralists of Banni are known to be “uncompromising breeders” (Kothari, 2013), meticulously maintaining the purity of the breeds, while their animals graze freely on the organic expanse of the grassland. The Banni buffalo is recognized as the 11th breed in India (Bharwada & Mahajan, 2012). Livestock based income accounts for 70.3% of Banni’s revenue,
of which milk sales alone constitutes 63.6% (Ibrahim, 2008). Annually Banni produces 13.8 million litres of milk, and trades in 13000 bullocks, 2500 buffaloes, clarified butter, manure, etc, for an annual turnover of Rs.552.67 million (Kothari, 2013).

Despite the economic viability of their livelihood and sustainable use of the grassland, the government has failed to recognize the right to resources of the pastoralists of the region. In fact, Banni suffers from a rather precarious land regime. At Independence the government of India nationalized as public all land not assessed for revenue, taking over all non-agricultural land devoid of private ownership (Corbridge & Kumar, 2002). Banni was declared a Protected Forest in 1955, falling within the purview of the state Forest Department (FD), but with its ‘settlement’ incomplete, it was not officially transferred to the FD.

“Survey and settlement” is the process through which the Revenue Department (RD) records private land holdings of each village, awards titles or rights over land, and ‘settles’ a tax for the land (Kasturi, 2008). Being stuck in this logjam between the FD and RD meant that, depending on the situation, the
departments selectively owned or disowned matters related to Banni, pushing the region and its people to the margins of the state’s imagination (Bharwarda & Mahajan, 2012).

3. The Expropriation of Banni and Claims for Community Rights

The appropriation of commons for industrial development experienced in Kachchh since the 2000s catalyzed the state departments into action, with the FD coming out with a landmark Working Plan (WP) for the management of the grassland 54 years after Banni was first declared a Protected Forest. Following the heavily refuted (Ostrom, 1990) tragedy of the commons thesis (Hardin, 1968), the WP enlists several plans for the “rejuvenation” and “scientific management” of the “highly degraded” grassland, “heavily damaged” by the “open and uncontrolled grazing” followed by the pastoralists (Meena & Srivastav, 2009). It says: “The Forest Department is adopting a technical way of reviving the grassland through ploughing, adding farmyard manure, leeching out the salinity through small trenches and seed sowing of local grasses. Also, the areas are completely fenced through double fencings [original emphasis] with barbed and trenched. The areas are coming up with grasses but it will take at least 3-4 years for revival, and after that areas are to be protected from open grazing continuously” [sic] (ibid.: 24).

![Wildly growing Prosopis Juliflora. Source: Wikimedia](image)

Additionally, the WP provides for 41,370 hectares of the grassland to be used as a *Prosopis Juliflora Zone* for industrial benefit, besides enclosing 67,321 hectares for growing grasses. *Prosopis* is an invasive water-intensive mesquite species used for producing biofuels (ibid.). It’s known to have deleterious effects on the growth of grasses, and its pods, when consumed, are fatal for cattle (Bharwada & Mahajan, 2006). Not only did the WP propose reserving an area for its production, it also explicitly stated that the *Prosopis* from the zone would be supplied to Abelon CleanEnergy (Meena & Srivastav,
a Gujarat-based company having offices in Canada, Ghana and Italy (website), clear evidence of the state-supported industrialization of Banni's resources!

In recent years, industry has made its way into Banni in the form of a large tourist festival at the edge of Banni, leading to the mushrooming of hotels and resorts across the main villages in the grassland, as well as in the form of marine-chemicals companies at the perimeter of the area designated as Protected Forest, including the 100,000 acre large Archean Chemical Industries Private Limited (Menon et al, 2014). But the industrial potential of the space in Banni has remained underutilized since, being a Protected Forest private ownership of land is prohibited in Banni. Murray-Li (2007) finds that for government ‘improvement’ schemes the identification of a problem is intimately linked to the availability of a solution. Subsequently the FD seems to have constructed the problematic of the mismanagement of the grassland to propose enclosure and commercial exploitation of resources in line with the industrial development and usurpation of resources taking place elsewhere in Banni, and in Kachchh in general.

Invoking the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act (FRA), 2006, the pastoralists in Banni are demanding Community Forest Rights (CFR) to the grassland in response to the WP. The FRA gives those who have resided in a ‘forest’ for at least three generations (75 years) ownership rights, community rights, title deeds for the land on which they reside and the right to collect minor forest produce (Chandra, 2015). Supported by CSOs, the pastoralists are engaged in multilayered and multifaceted mediations with government officials, civil society leaders as well as among themselves. If CFR were granted, the pastoralists would gain formal management rights over their resource. At the same time, the process of claim-making as engaged in by the pastoralists is mired in local politics and majoritarian interests. While shortfalls of the FRA, as an instrument of securing rights, are well reported, the socio-political aspects, especially changes within the community, are far less talked about. The next section aims to expose and
introspect on these aspects of securing CFR over natural resources.

4. The Changing Socio-Political Milieu of Banni

With the slogan, “Banni ko Banni rehne do” or “Let it be Banni” (Bharwada & Mahajan, 2012) the pastoralists have mobilized to claim CFR in response to the WP and the increasing usurpation of resources in the grassland. But, as this section aims to show, although the resource use would remain the same, the socio-political landscape within which the claims are being made is fundamentally altered by the very process of claim-making. While change is but natural, and would come sooner or later, this paper presents them here to contrast the homogenizing discourse adopted by CSOs when advocating for community rights over resources.

3.1 New centres of power

Traditionally, the grassland was governed by a village council of elders, the Patels, who resolved disputes and built consensus on matters of resource use. In
2008, the Banni Breeders’ Association (BBA) was formed with the help of CSOs to promote pastoralism as a livelihood in the grassland. It is now spearheading the pastoralists' demand for CFR.

BBA is designed to be a participatory organization with a secretariat at its helm to make decisions and carry out day-to-day functions. One must recognize that, despite its design, who is able to access the association is limited and constricted by the reach and objective of the civil society organizations that support it.

Expectedly, Banni is spatially so organized, that the main road passes through those villages in which the populations are relatively sedentary, and thereby more literate. The pastoralists in these villages have been able to diversify their income sources to tourism, agriculture, and industry. Three villages on this route are important – Bhirandiyara, Hodko and Dhordo.

Hodko is at the heart of the campaign for CFR. The office of BBA is in this village and CSO representatives most frequently visit it. Dhordo, at the crown of Banni, has benefitted the most from the development of industry and tourism around it, and the villagers have withdrawn from transhumant pastoralism.
Bhirandiyara lies between two important commercial centres in Kachchh and also benefits from tourism. Bhirandiyara and Dhordo have not joined the campaign for CFR, demanding individual plots of 20 acres for each family instead.

While Bhirandiyara and Dhordo have conflicting demands because of their diversified livelihoods, the most nomadic and ‘sincere’ of Banni’s pastoralists, the Jats, are not well represented in decision-making processes because of their weak communication with Hodko. Their villages are situated in such a terrain that is most vulnerable to climate variations, and thereby calls for more frequent and longer migrations. Consequently, they are not always able to attend and make representation in BBA meetings, facing political marginalization, which, as Devereux (2010) shows, is quite different from economic marginalization.

Where access and use of the grassland was managed by traditional leaders of autonomous village councils, FRA calls for the establishment of Forest Rights Committees (FRCs) at the village level, subsumed under a central FRC overseeing the management of resources across the grassland. The FRCs themselves will receive funds for their operations and initiatives through the government, following approval by state officials. The FRCs are closely aligned with BBA, and only those leaders who are able to access civil society organizations, not to mention, have monetary resources and schooling, are able to steer. BBA and the FRCs represent new centers of institutionalized power in Banni.

The contestation between the old and new institutions create a new social geography, new ways in which social relations, social identities, and social inequalities are produced through their spatial narration and production of new
space (Pain et al, 2001).

3.2. Interests of marginal groups
Along with the pastoral communities in Banni are found the low-caste Harijan/Meghwal community and the animistic Koli/Wadha community. The Meghwals are responsible for disposing off animal carcasses. While doing so they also make leather products and handicrafts. The Wadha community are woodworkers, making furniture and other useful household items. Both these communities survived on the patronage of the pastoralists who gave them milk, yogurt and clothes in exchange for their products and services.

Choksi and Dyer (1996) show for the Rabari pastoralists that “apart from physical changes, the world has also fundamentally changed for it is no longer governed by the moral order that prevailed in the past.” Similarly, the moral fabric governing such resource partitioning in Banni seems to be ripping at its seams under the weight of growing monetization and profit orientation of the economy. The Meghwals and Wadhas face increasing impoverishment in the absence of alternate income sources, the lack of capital and cultural restrictions prohibiting them from acquiring land for agriculture or livestock for rearing. Simultaneously, they are increasingly disenfranchised from majoritarian community organizations such as BBA as well as local governance institutions such as Panchayats.

There are also some families that usufruct individual plots in the commons to harvest Prosopis and produce coal, or for growing crops such as wheat, millets and oilseeds for domestic and market consumption (Shrivastava, 2013). Though this sort of resource use is also managed under community tenure elsewhere in the world, in the context of Banni, the Breeders’ Association and affiliated village leaders have disallowed the private fencing stating that individual plots go against their demand for CFR. Kanu Patthan¹, one of the pastoralists who wants to develop a plot, since he lost his cattle to drought, says that the pastoralists

¹ Interview, 23/08/15, Sadai
who are opposing the plots have 100-200 animals of their own, each worth Rs.100,000 and therefore see no benefits in them, whereas they could give his family a new lease of life.

FRA as a legislation is restrictive in that it prohibits a change in land-use once rights are granted, limiting the flexibility available to inhabitants of the region (Kohli & Menon, 2016), such as Kanu Patthan. The varied voices of women, youth and pastoralists who migrate into Banni are not heard. Despite these shortfalls, attempts have not been made to secure the diverse interests of the different groups that depend on the resources in Banni.

3.3 The demand for individual rights
Unlike the pastoralists in Scott’s (2009) Zomia, who actively evade state control through their socio-cultural make-up, geography and informal economy, the pastoralists in Banni do not “congratulate themselves on their genius for managing without” the state (Murray-Li, 2014). Instead the pastoralists can be found actively liaising with the state to bring ‘development’ to Banni, understood as a generic expression for a series of mostly state sponsored activities such as the construction of roads, bridges, public utilities and other social welfare” (Mitra, 1992).

Unfortunately, being ‘unsurveyed’ villages, the pastoralists of Banni forfeit benefitting from any of the development plans operative in other parts of the district where income below a predetermined subsistence level qualifies people for state subsidies (Ibrahim, 2008). One such scheme is the Indira Awas Yojana, a central government scheme that provides poor families funds to build pucca brick houses (Witsoe, 2012). There is an overwhelming demand for government housing in Banni under this scheme, with Nadeem Jiyeja², a local pastoralist, calling it the “most important” and “main benefit” they should receive. Saajan Juma³ asks, “Why don’t we have property rights like everyone else in the district? We want Indira Awas, we want cattle loans; we want all the scheme to

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² Interview, 12/08/15, Luna
³ Interview, 03/09/15, Luna
be applicable to us.”

The FRA provides for the conversion of unsurveyed villages to revenue villages which gives them title deeds to the land on which their house stands and recognitions of their land rights. The lack of these rights, seemingly symbolizing a marginal status, is the primary cause of their dissatisfaction with the state, as well as their foremost demand from it. A 2009 Kutch Mitra article says, “Native Banni residents are also Indian. Why shouldn’t they receive Revenue benefits just as other citizens? For how long will Banni remain without ownership, stuck between two departments?”(Joshi, 2009)

The question of land and livelihood was more multidimensional than the common framing of ‘land grab’ and ‘dispossession,’ issues taken up readily by NGOs under such circumstances (Gilfoy, 2015). There are two things to observe from this situation: 1) The state still requires title deeds, even if recognition of CFR were granted, to deploy social welfare schemes, and 2) consequently, the owning of private property and title deeds continues to be precious. And, therefore, the FRA is just an apparatus through which the pastoralists want to gain title deeds – whether it be to gain dignity as equal citizens of the country, or material gains through state development schemes. Navigating and negotiating with the illegible state for such benefits would be difficult for the pastoralists. CSO support was contingent on them demanding CFR, as opposed to individual rights. Would they have chosen to seek individual rights were it easier or solicited by civil society is not known.

4. Conclusion

The introduction of this article began with an overview of the usurpation of resources faced by the pastoralists that forms the raison d’etre for the demand for community tenure over rangelands. Secure tenure is not only important for the continued viability of the livelihood, but also for the cultural reproduction and right to self-determination of the pastoralists.
The beautiful Banni grassland.

The proposals of the WP and the ongoing industrialization in Banni reveals the lack of understanding and utter disregard of the state-industry nexus for the livelihood and wellbeing of the pastoralists. Therefore the paper supports the demand for community rights, but it also urges one to look at the impacts of such claim making. While many gaps in the instruments and procedures for securing rights have already been identified, this paper applies an anthropological lens to presents a ‘view from below’ further strengthen the realization of community rights by providing a deeper understanding.

Gilfoy (2015), referring to civil society opposition to industrialization in Liberia, says that the understanding of state-society conflict is “funneled through the institutional prisms, imperatives and methodologies” of these organizations, creating a universal narrative blinding us to the role that civil society plays in creating ground realities. Such a “deconstruction of homogenous communities” (ibid.), as presented here, is especially important in view of the recent civil society mobilization for community rights including the Global Call to Action on Indigenous and Community Land Rights that brings together 400 organizations from across the world to support this cause (Pearce, 2016).
Agarwal (1994) raises a pertinent point when he says that many theorists of the commons tend to valorize pastoral communities as if they were untouched by political maneuvers and that state intervention was their only challenge. He says that questions that theorists of commons can attend better concern the extent to which intragroup politics and issues of power and resistance shape resource use and management strategies, including the demand for community rights, and the ways in which the use of common pool resources undermines or exacerbates other political and economic inequalities (Agarwal, 2008). By teasing out the negotiations and socio-political dynamics of the claims made by pastoralists, this paper attempts to further scholarship on commons management by looking beyond the binary of state versus pastoralists, and rather looking inwards within pastoral communities.

It is important to bear in mind the capacity of local agency to reconfigure state-society relations, and the power geometries that parallel and inflect these (Beazley, 2011). At the same time, the paper demands one to be critical of civil society literature that present a simplistic and unitary understanding of community rights. This is not to say that achieving community rights is not positive, indeed, it is the way forward for sustainability as well as social justice. But achieving community rights is only a means, not an end in itself. Understanding the nuances explored in this paper calls for improvement in policy and practices for stable commons management.
References:


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