

## **Inland Fisheries of India: A Policy Note**

This note reviews the inland fisheries legislations and policies of Indian States to understand how far these policies recognise and protect the fishing rights of communities.

### **Inland water resources of India**

India is bestowed with enormous inland water resources (7 mn ha in area) (DAHD, 2011). The inland water resources of India are categorized into rivers and canals; reservoirs; tanks and ponds; flood plains (*beels* and oxbow lakes) and derelict ponds; and brackishwater bodies. The prominent type of water body varies from region to region. The state of Uttar Pradesh, for example, has 17 per cent of the total length of rivers and canals in India; the southern states of Andhra Pradesh, Tamil Nadu and Karnataka have the majority of ponds and tanks.

### **Current scenario**

These waters are home to 877 indigenous species of freshwater fishes and 113 brackishwater species (Sarkar, 2011). This is apart from the myriad varieties of other aquatic species such as mollusks, frogs, and prawns found in these ecosystems. These resources have resulted in a thriving inland fisheries sector in India and are a source of livelihood and nutritional security to millions.

India is second in the world with respect to inland fisheries production with a production recorded at 4.8 mn tonnes of fish (DAHFD, 2011). In 2009-2010, fish production from inland waters was 48.1 lakh tonnes as opposed to the production from the marine sector (31.03 lakh tonnes) (DAHFD, 2012). Inland fisheries (both capture and culture) employ around 0.9 mn people in different activities related to fishing (Live Stock Census 2003).

Though a provider of livelihood and nutritious food, these functions of inland water bodies are not given its due recognition in many States (Planning Commission, 2001). The only exception is seen in the State of Odisha where the State Fisheries Policy indicates that given that fishing is a non-consumptive activity with regard to water and provides livelihood and nutrition to millions of poor, water can be extracted from any inland water body in Odisha for other activities such as irrigation only after retaining the minimum level required to sustain fishing activity. The Orissa Reservoir Policy also indicates that if any reservoir is to be built, cutting off trees in submergence zone should be insured to facilitate fishing when water fills up the reservoirs.

Other than this bias towards fisheries seen in Odisha, lack of recognition of fisheries from these water bodies (except as a source of revenue for the exchequer) has led to neglect and failure to protect these aquatic systems and the ecosystem services rendered by them. This has led to habitat degradation through water mining, change in land use pattern, siltation, increased pollution due to discharge of industrial and domestic pollutants etc., in turn leading to biodiversity loss, death of water bodies, nutrition loss and loss of resource-based livelihoods to coastal communities. The major thrust as far as the government is concerned especially with respect to increasing output from inland fisheries is promoting inland aquaculture. Though inland aquaculture in general and freshwater aquaculture in particular

provides cheap nutrition to domestic population, it has also posed some threats to the fishing communities or the traditional fish farming communities and the environment.

Indian Major Carps (IMCs) are being pushed in inland freshwater aquaculture with no focus on the already available indigenous species in these waters, the mainstay of nutrition to the local poor. There are also instances of the reduced species diversity of indigenous varieties due to the de-weeding (removal of indigenous varieties of fishes which are categorized as weeds) of ponds that are carried out before stocking IMCs.

The ownership/ revenue rights of these inland water bodies, coming under the State Subject List of the Seventh Schedule of the Constitution, is vested with various State departments and institutions. Some are also under private/ individual ownership. The absence of a framework for its administration at the national level and the diffused administration across departments at the State level has added to the existing mayhem.

In addition, many water bodies fall within protected areas, which fall within the jurisdiction of the Forest Department. In the name of conservation, communities have in many places lost their fishing rights. Once declared as a protected area, fishing is deemed illegal by the forest department. At the same time, the fisheries departments have promoted stocking these reservoirs and harvesting them, usually through auctions.

In a couple of places, communities have fought for and even got rights over fishing; in some cases even before the Forest Rights Act (FRA) of 2006. Well-known examples are Totladoh in Maharashtra/Madhya Pradesh and Tawa in Madhya Pradesh where communities went to court over their fights. However, in spite of getting favourable directions from the Supreme Court, in both cases the rights were later revoked arbitrarily. The FRA enables the communities (dwelling in forests) to file for community rights over spaces they have been using for a common purpose such as burial grounds, fishing etc. At the third National Consultation on Community Forest Rights (CFRs) in March 2013, in Delhi, civil society groups mentioned that fishing is one of the CFRs that communities have begun to file claims for; in several cases they have obtained fishing rights as a result. In Hadagarh, Odisha, communities have got fishing rights over the dam which is located within a protected area.

### **State policies: an overview**

Here we give the salient features of States' inland fisheries legislations and policies, followed by further details for each State. However, the legislations of a few States (Jharkhand, Meghalaya, Mizoram, Tripura, Sikkim, and Punjab) are yet to be accessed. In addition, the Union Territories have not been covered in this note.

As mentioned earlier, the lack of a national-level legislation on inland waters has led to varied interpretations by States on how to manage their inland waters. Some are progressive, recognising the rights of local communities, some even have mechanisms to involve communities in managing resources. For the most part, however, management is vested with the State Fisheries Department, which looks at inland water bodies purely as a source of revenue. The focus therefore is stocking of these water bodies with commercially important species (like Indian major carps), and harvesting them. The importance of fishing to local communities, both in terms of nutrition as well as livelihood, is rarely noted. One of the few exceptions is the Machchli Palan Plan of 2008 (the Fisheries Policy of Madhya Pradesh). This policy recognizes the rights of various fishing castes/ communities in the region and

priority wise lists out the granting of fishing rights. The Jalkar Management Act of Bihar (2008) gives priority to women of the community to practice fish culture in the ponds and tanks. This inclusion of women and the change in the definition of fisherman was the result of continuous engagement of fishing communities with the authorities.

To the contrary is the situation in Loktak Lake, Manipur, where the Loktak Development Authority, set up after the water body was designated as Ramsar site, is removing the traditional fishing community and their traditional *athaphum* (a type of fishing practised from *phumdis* or floating islands) fishing from the core area of the lake in the name of conservation. Here fishers have organized under the umbrella of All Loktak Lake Area Fishermen's Union (Allafum) to demand protection of their lives and livelihood and protest the demolition of their *phumdis*.

Most States have defined fish including shell fish and fish at all stages of life history. Some, like Nagaland and Uttar Pradesh, include turtles, and large marine mammals such as whales in their definition. These two States and Himachal Pradesh include aquatic plants within the definition of fish.

Fishermen are defined either by caste/traditional fishers, or whether they are active fishers. In the case of Bihar, fishermen were defined as 'professional fishers' in the 2006 Jalkar Act. This was amended to 'traditional fishermen' later. Only Kerala includes women fish vendors (who's husbands are fishermen), and widows of fishermen in the definition of fishermen.

Private water are typically defined as water bodies which are the exclusive property of a person or where a person has exclusive fishing rights for a given period of time. In some States, like Manipur, an added caveat is that this definition does not include any water body that is connected to a natural water body (like a river, canal) during the rainy season.

In most States, fisheries are vested with the Fisheries Department though it is conditional in some cases; water bodies within protected areas are excluded from the purview of the fisheries act in Arunachal Pradesh. In most States this distinction between water bodies within and outside protected areas is lacking, making for potential jurisdictional conflict with the Forest Department.

Without fail, States prohibit the use of poisons and explosives for fishing, some also ban the use of weapons like guns, and bow and arrows. In the case of Kerala too these modes of fishing are banned, except when these are needed for aquaculture activities. States also have the power to regulate or prohibit the use of fixed engines; construction of dams/weirs; declare closed seasons; regulate catch size allowed; gear types etc.

States also, typically, prohibit the subletting of fisheries by licencees or the hire of non-licencees (by licencees) to work in the fishery. Though Assam requires lessees to employ, in the fishery, only locals belonging to the fishing community (SC/ST or maimal community).

A couple of States prohibit the introduction of exotics without permission. Gujarat specifically bans the culture of Thai magur, African magur, Big Head, and hybrid/Golden Red Tilapia while Himachal Pradesh prohibits the culture of Tilapia. West Bengal goes further and calls for tanks with multiple owners to stock small indigenous fish species as well as carps.

## **Fishing Rights**

The Fisheries Department is tasked with issuing licences for fishing, and auctioning fishing rights in reservoirs etc in all States. However, in Arunachal Pradesh, water bodies where indigenous communities have customary fishing rights are exempted from the fisheries act. And in Assam, fishing licences are to be given preferentially to traditional fishers (SC/ST or maimal communities) with 60 per cent of the available fisheries to be leased only to cooperatives where all members belong to SC/ST or maimal communities. Such cooperatives also have to pay less security deposit. Bihar too has similar progressive legislations which give priority to traditional fishers.

Interestingly, Assam recognises the importance of subsistence fishing; such fishing in government controlled fisheries are allowed with the payment of an annual fee of 4 *annas* (no doubt this has been revised). The State also requires lessees (of water bodies) to allow nearby *raiyats* (agricultural labour) to catch fish for their consumption by paying 4 *annas* annually.

Assam has several clauses in favour of traditional fishers. The Deputy Commissioner has the power to add a clause in the lease agreement that some part of the fishery should be sold for local consumption if he feels this is required. The successful tender should supply adequate the quantity of fish (to be fixed by Deputy Commissioner) to the headquarters, towns of the district or any other locality/localities where fish is particularly scarce. Fisheries should be settled for the best advantage of local community, for this middlemen as lessees should be avoided. To effect the same a large water body will be broken into various small parts and leased out to actual fishers and preference will be given to riparian land occupants or actual fishers.

In addition, a lessee (of a water body) should not levy duties or hinder the passing of any boats or anchoring of boats within the limit of the fishery. During closed season in any waters, only locals are allowed to fish for their consumption using specified gear.

## **Power sharing**

In most States, the Fisheries Department has complete management control over fisheries. The rare exception is Kerala and Bihar where local bodies are involved in decision making. In a couple of States revenue is shared with local bodies. In Arunachal Pradesh, while management continues to be with the State, revenue from fish culture is shared with local bodies. In water bodies where the fisheries department has not actively set up fish culture, revenue will be shared equally between the State and the local body (Gram Panchayat, Anchal Samiti, Zilha Parishad etc). Similarly in Tamil Nadu, the village panchayat can auction fishery rights of irrigation sources and public water bodies that are entrusted to the panchayat union council.

Kerala's policies are more progressive; power over fisheries and other activities in public water bodies is vested with the government but subject to the rights vested with the local self government institutions. Local bodies to have the power to issue licences for fishing in waterbodies under their control though with the recommendation of the fisheries department. Decisions taken by government that relate to waterbodies with local bodies, shall be done after consulting said local bodies. In addition to various State Departments, State and district fisheries management advisory committees have representatives of trade unions, fish farmers, local bodies, and panchayats as members.

In Bihar, the managing committee (for each water body) consists of government officials, and one active fisher representative and one representative of fishers cooperative (both nominated by the government). The reserve deposit fixation committee (which assesses annual production capacity of the *jalkars* once in 5 years and fix the government selling price of various products on the basis of the selling price over the last 5 years and the production capacity) has one active fisher representative and one representative of fishers cooperative.

### **Supreme Court judgements and the issue of commons and community rights**

The Supreme Court has delivered some interesting judgements in recent years. One such is the 2011 judgement on commons which arose out of a dispute over encroachment of common land in Rohar, Punjab. Individuals had encroached on village grazing land and built houses. After appealing to the Collector and lower courts (to restore the commons to the village body) unsuccessfully, the gram panchayat approached the Supreme Court. The court in January 2011 delivered what has been hailed by civil society organisations as a landmark judgement.

The court notes that commons have always been considered inalienable so their status as community lands be preserved. The court notes that the protection of commons has been so zealously done that there is legislation and court cases in India that hold that the vesting of such commons with the State does not mean the rights of communities was lost by such vesting. The court also pointed out that the State has handed over the management of such commons to local bodies. The Supreme Court directed States to prepare schemes to evict encroachers (on commons) and restore these commons to the community. There are however concerns that the judgement could be used to evict the poor.

Another Supreme Court judgement was more specifically on fishing rights and local communities. In Pench National Park of Madhya Pradesh, the Forest Department had issued fishing licences, to fish in the Totladeh reservoir, to tribals. This was opposed by an environment group contented was that section 5 of the Indian Forest Act (IFA) of 1927 states that any rights existing must be claimed and settled at the time of notification in reserved forests. Since these claims were not filed at the time of notification of the protected area, these claims (and therefore the licences) were invalid. The Court however took the view that since the community were earlier living in the forest, they had traditional rights over the resource and these fishing licences were being given in lieu of these traditional rights. The Court also noted that though conservation is important, the livelihood needs of tribals are also important. It said the State needed to ensure livelihood options are taken care of when they are resettled.

### **State-wise legislation**

#### **ANDHRA PRADESH**

##### **The Andhra Pradesh Water, Land and Trees Act, 2002**

- An act to create the Andhra Pradesh Water, Land and Trees Authority
- Authority charged with regulating the exploitation of water resources (both surface and ground water), advising the State on strengthening public participation in

conservation of natural resources in such a way that equity in access to water in different basins, sub-basins and regions in the State is maintained.

- Authority can also direct (the occupier of land) to change land use if the quality of water from the land is not upto prescribed standards.

#### **Andhra Pradesh Water Resources Development Corporation Act, 2004**

- Act to create Water Resources Development Corporation tasked with promotion and operation of irrigation projects and command area development, including flood control
- Corporation also deals with related activities such as fisheries and pisciculture promotion by stocking reservoirs or water sources with fish, and handles sale of fish or fishing rights and prohibition of taking fish from waters under its control
- However, there is no indication (in the act) of the process of sale of fish/fishing rights and whether traditional fishers will be given preference

#### **Andhra Pradesh Water Resources Extent Regulatory Commission Act, 2009**

- This Act creates a Commission to determine the water requirement for various uses on an yearly or seasonal basis, implement the same, and determine the operational and maintenance costs of water projects.

### **ARUNACHAL PRADESH**

#### **Arunachal Pradesh Fisheries Act, 2006**

- Extends to all parts of the state except reserved forests, wildlife sanctuaries national parks, protected forests (notified by the state)
- Defines fishery to mean water bodies declared to be a fishery under section 3 of this Act but will not include any such water bodies on which indigenous communities have customary rights of fishing
- Defines private water as water bodies which are the exclusive property of any person or over which any person has, however temporarily, exclusive fishing rights in whatever form (owner or lessee)
- Fisheries department vested with management rights over all natural water bodies
- Revenue from fish culture (that the department has taken up) will accrue to the fisheries department. But in water bodies where the department has not actively set up fish culture, any such revenue will be shared equally between the state and local body (gram panchayat, anchal samiti, zilha parishad etc)
- Act also gives the State the power to declare any water body as acquired by it, except private waters

### **ASSAM**

#### **The Assam Fisheries Rules, 1953**

- Fishery means waters declared to be a fishery (under Section 16 of Assam Land and Revenue Regulation, 1886), includes *kheos* or fish ways, *dabas* and *beels*; fish includes shell-fish and turtles

- Register of government fisheries to be maintained at the district level
- Fishermen are defined not only by caste, but also by whether they are active fishers or not
- Special space for traditional fishers; fishing licences will be preferably given to cooperative societies with at least 80 per cent of membership consisting of traditional fishers (SC/ ST or Maimal community who are traditional Muslim fishers)
- Fishing in beels is allowed by lease. If a waterbody dries out or silts up, the lessee gets only fishing rights not land rights. Maintaining waterbody is duty of lessee
- The State can impose restrictions on gear (small mesh size restriction can be relaxed for smaller species), season, species, size (of fish)
- Long lease periods are preferable so as to ensure biodiversity conservation
- 60 per cent of the available fishery must be sold under a tender system and that too only to cooperatives where all members are fishermen belonging to SC/ maimal community (registered under Assam Cooperatives Society Act, 1949)
- Remaining fisheries will be open to other communities as well and be given to the highest bidder. Even this could be given to cooperative with 100 percent fishermen if they can match 7.5 per cent of the highest tender. If cooperatives are not able to match this, then individual members from these fishing communities will be given preference, followed by individual members from other backward classes and SCs who can get the tender at 60 per cent of the highest tender. The priority will be in the above mentioned order. In all the above categories the highest bid will be considered for lease
- A security needs to be paid and it is equivalent to 25 per cent of the first year's revenue by groups formed by people other than fishers belonging to SC/ST or maimal community, if the group has 100 per cent fishers then the security to be paid is only 10 per cent of the first years' revenue
- The lessee has no right to sublet the fishery to another person or sell the lease right without prior notice of deputy commissioner
- Fishing in government fisheries for subsistence is allowed with a payment of dues (4 annas per instrument per annum) but more than 25 persons at a time is prohibited in the interest of the lessee and the government. Defaulters will be punished. (The lessee of any fishery should allow the nearby *raiyats* (hired labour in agricultural land) to catch fish for their own fish for consumption on a payment of 4 annas per net or basket per annum)
- Deputy Commissioner can also make a clause in the lease that some part of the fishery should be sold for local consumption if he is satisfied this is required. The successful tender should supply adequate quantity of fish to be fixed by deputy commissioner to the headquarters, towns of the district or any other locality/localities where fish is particularly scarce
- Fisheries should be settled for the best advantage of local community, for this middlemen as lessees should be avoided. To effect the same a large water body will be broken into various small parts and leased out to actual fishers and preference will be given to riparian land occupants or actual fishers
- A lessee on a water body should not levy duties or hinder the passing of any boats or anchoring of boats within the limit of the fishery
- No lessee can employ in the fishery, people other than locals belonging to the fishing community (SC/ST or maimal community)
- During closed season in any waters, only locals are allowed to fish for their consumption using specified gear
- Using explosives, poisons prohibited

### **Assam Private Fisheries Protection Act, 1953**

- To protect the right of fishing in private waters
- Applies to areas where earlier the Private Fisheries Act, 1889 was in force
- Fish includes shell-fish and turtles
- Private waters means water which is the exclusive property of a person, or in which a person has exclusive fishery rights
- Does not prevent anyone with a bonafide claim in accordance with established custom from angling with line or rod
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### **Garo Hills Fisheries Act, 1953**

- For the autonomous region of the Garo Hills
- Along the lines of the Indian Fisheries Act

## **BIHAR**

### **Bihar Fish Jalkar Management Act, 2006 (with amendments in 2007, 2010 )**

- Defines *jalkar* as a tank, *pokhar*, river, reservoir lake, etc which is under the DAHDF. Fisher cooperatives are defined as those registered under the Bihar Co-operatives Societies Act, 1935 and whose members are all fishermen
- Constitutes a managing committee of government officials, and one active fisher representative and one representative of fishers cooperative (both nominated by the government)
- A reserve deposit fixation committee (of 2 government officials and one active fisher representative and one representative of fisherscooperative (both nominated by the government) shall assess annual production capacity of the *jalkars* once in 5 years and fix the government selling price of various products on the basis of the selling price over the last 5 years and the production capacity. The committee also fixes the reserve deposit amount
- Defines fisherman as a professional fisher engaging in fishing and fish culture (modified to traditional in the 2007 amendment)
- Provides detailed rules and regulations on leasing out of *jalkars* for 5 or 10 years to fisheries cooperatives. The 10 year agreements are for water bodies of upto 4 ha in size, and are to be done only with trained fishermen (ie trained by the fisheries department). Such fishermen will be decided by the managing committee. From among the applicants, preference will be given to those who reside near the *jalkar*. Short term settlements for *jalkars* not selected for long-term settlements, will be done with fisher cooperatives that function in that block. The remaining *jalkars*' fishing rights can be auctioned. This open to all
- Any fishery officer or fisher cooperative who sublets water bodies to nonfishers or gives fishing rights to non-fishers will be penalized
- Prohibits fishing in rivers from mid June to mid August as well as prohibiting certain gears, use of explosives etc

### **Bihar Fisheries Policy, 2008**

- Recognises the untapped potential of the State's fisheries (both in terms of production and enhancing rural livelihood) while half of its fish demand is met by supply from other States
- Notes that a favourable legal and institutional environment is needed to achieve the goals of providing cheap and adequate fish (for food) for all and to improve the quality of life of fishers and fish farmers
- Calls for better data collection and management systems; better fisheries management keeping mind biodiversity concerns; a push for aquaculture in ponds, bringing aquaculture on par with agriculture in terms of tariffs, taxation etc; development of fisheries in various kinds of water bodies- ox-bow lakes, floodplains etc while recognising unique property regimes such as those in floodplains where farmers own part of the cropping land under submergence making culture conditional upon collective effort
- In reservoirs, the policy proposes to transfer fishing and management rights to the Department of Animal and Fish Resources to enable fisheries development. Priority of lease will be to displaced / affected populations and traditional fishers by forming fishers' co-operatives, fishers' associations and SHGs as a means of their rehabilitation process. In their absence, the reservoir will be leased out to the group of unemployed youth, private entrepreneurs, public undertaking, etc through open auction. Lease period will be long term of ten years. An appropriate management plan for each reservoir is to be evolved jointly by the Department and the lessee for promoting culture based fisheries under a co-management system. The emphasis will be empowering the local fishing communities and their organisation so that they can effectively participate in the management of reservoir hand in hand with the fisheries department
- Seeks to develop aquaculture with a focus on commercially important species like prawn, carps, and catfish as well as ornamental species
- Notes that while revenue water bodies have been transferred to the fisheries department to enable better aquaculture development, this has not taken place inspite of progressive moves such as giving priority to traditional fishers (for fishing and fish culture). The policy notes that the local level officers (like the DFO) continue to use their discretionary powers to make arbitrary decisions in deciding period of lease, revenue and fishery allotments
- Recognises the need for better marketing links and talks of need for training of fishers as well as better educational opportunities, access to health etc

## **CHHATTISGARH**

### **Chhattisgarh Fisheries Act, 1948**

- Fish includes shell fish and fish in all stages of its life history
- Private water means water which is the exclusive property of any person or in which any person has for the time being an exclusive right offishery whether as owner, lessee or in any other capacity, but does not include any river, canal, stream, jhil, or any piece of water which ordinarily has direct communication with any river, canal, stream or jhil
- Water shall not cease to be "private water" because persons other than the owners may have by custom a right of fishery

- State, by notification, may apply such rules to any private waters with the consent in writing of the owner and of all persons having for the time being any exclusive right of fishery
- Rules to regulate use of fixed engines, construction of weirs/dams etc, gear size, type, mode of usage, fishing methods, fishing season; prohibit use of explosives, poisons, any substance harmful to fish; prohibit fishing except through licences issued by the State; prohibit sale, transport, purchase of fish within or outside the State, in excess of prescribed quantity except through licence; regulate grant of licences
- Fishing without a licence is a punishable offence

### **Fisheries Policy, 2003**

- Ponds, tanks and irrigation reservoirs up to 200 ha are to be given on lease for a 5 year period. Water bodies of 200 - 1000 ha. & above 5000 ha will be leased out to fishermen co-operative societies by the department. Water bodies between 1000 – 5000 ha, will be allotted to C.G. Matsya Mahasangh on royalty basis. In ponds and tanks having more than one ha, water area are to be leased out to registered fishermen's co-operative societies
- Fisheries of 10% of ponds, tanks and irrigation reservoirs are to be reserved for leasing to unemployed youth who have been given training by the department for 10 months
- Working jurisdiction of a registered co-operative society will be within the radius of 8 km from its headquarters
- If three tier panchayat bodies fail to lease out fisheries of ponds and tanks within 6 months, such tanks would be leased out directly as per rules by the Collector of the district concerned
- Fish Seed traders are liable to take licenses under Fish Seed Act.
- One tank in every village will be identified and left for the needs of villagers. No fisheries development will be taken up in such tanks
- Royalty will not be charged for minnows extracted from irrigation reservoirs which are under the department
- Existing departmental hatcheries which are running in loss to be leased out

### **GOA**

#### **Goa Irrigation Act and Rules, 1973 (amended 1975, 1986)**

- No person shall have the right to ply any vessel in a reservoir or tank or across or along a canal or channel maintained or controlled by the Government without permission
- Provided that no permission for fishing in any tank with an aekhat of not more than two hundred hectares shall be granted by any officer empowered under this section except with the concurrence of the Canal-Officer

### **GUJARAT**

#### **The Gujarat Fisheries Act, 2003 (amended 2011)**

- Applies to territorial waters as well

- Fish defined as any aquatic animal and aquatic vegetation in all stages of their life span. Exotic fish defined as all species of fish of any country other than India
- Private water defined as water which is the exclusive property of any person, or
- in which any person has for the time being an exclusive right of fishing whether as owner, lessee or in any other capacity
- Water shall not cease to be "private water" because other persons may have, by custom, a right of fishing
- Prohibits use of explosives, poisons for fishing, introduction of exotic fish species (with an intent to destroy fish in the water body)
- State can make rules for private waters to regulate gear used; construction of weirs/dams/bunds etc; release of industrial waste in inland waters which may harm fish or their feed; nets (size, type, mode of use); enforce fishing bans; prohibit specific weapons from being used for fishing; prohibit introduction of fish species that may be harmful; regulate any fishery in inland waters; lease out public water resources for specified time and charge fees for the same
- State may, by notification, apply such rules or any of them to any private water with the consent, in writing, of the owner and of all persons having for the time being any exclusive right of fishery
- 2011 amendment relates to registration of fishing vessels by a single authority as a counter terrorism move, in light of the Mumbai terrorist attacks of 2008

#### **Rules under the 2003 Act**

- Introduction of exotics without permission of fishery officer prohibited
- Culture of Thai magur, African magur, Big Head, and hybrid/Golden Red Tilapia prohibited
- Authorises Commissioner to develop a comprehensive leasing policy for inland waters to give these out for lease for 10 years
- No fishing in inland waters with a net operated from a mechanized boat without permission

### **HARYANA**

#### **Haryana Fisheries Rules, 1996**

- Fishing without licence in specified waters prohibited
- Fishing rights in specified waters will be auctioned annually
- If highest bid is not a fishermen's cooperative society registered under relevant act, auctioning authority will not accept the bid unless it is 10 per cent more than highest bid from a fishermen's cooperative society
- Licencee can fish during closed season but only using specified gear – rod and line and hand line
- Lists restrictions of gear, time, location, fish size etc

### **HIMACHAL PRADESH**

#### **Himachal Pradesh Fisheries Act, 1976 and Himachal Pradesh Fisheries Rules, 1979 (amended 1998)**

- Defines fish to include shell fish and fish in all stages of its life history including aquatic plants of fisheries
- Private waters' means waters which are the exclusive property of any person or in which any person has for the time being an exclusive right of fishery, whether as owner, lease or in any other capacity and includes tanks, ponds, artificial lakes etc. excavated at the expense of the owner which have no communication in the rainy season with natural waters such as rivers, streams, canals and jhils
- Water shall not cease to be private water because other persons may have customary fishing right
- State may, by notification, apply such rules to any private waters with the written consent of the owner and of all persons having for the time being any exclusive right of fishery, or if the State is satisfied that the consent is unreasonably withheld without such consent
- The rules don't apply to waters attached to religious bodies
- Can prohibit/regulate - fixed engines, construction of dams/weirs, killing fish by diverting water, gears, catch size, transport of catch
- No fishing without licence, no use of poisons/explosives
- State can prescribe the formation of associations or societies and the collection of funds for the uplift of fishermen and promotion of fishing industry
- Stocking of any tank, pond or jheel with any of the species of *Tilapia* prohibited

## **JAMMU AND KASHMIR**

### **The Jammu and Kashmir Fisheries Act, 1960**

- Repeals the 1901 J&K Fisheries Regulation and with this act ceases the existence of the form of fishing rights known as *mahal-i-mahigiri*
- Trout Waters mean and include all waters, which are now being stocked with English trout, in which no fishing shall be permitted, except, under a special license
- Reserved Waters mean and include waters where fishing shall not be permitted, except, under a special license nor shall the capture of fish be allowed by means other than a rod and line or a casting net
- The ordinary landing net and bait net used by rod fishermen is permitted to be used, provided the owner holds a license for rod fishing
- Protected Waters mean and include waters where fishing shall not be permitted, except under a license (with restrictions on gear)
- Prohibits use of explosives, poisons for fishing

## **KARNATAKA**

### **Karnataka Inland Fisheries (Conservation Development and Regulation) Act, 1996**

- Not applicable to national parks and sanctuaries declared under the Wildlife (Protection) Act of 1972 (WLPA)
- Fish includes shrimp, prawn, crab, lobster, molluscs and their young ones
- Fish culture defined as any activity connected with the breeding and rearing of fish by process other than natural process
- Fishery defined as any activity or occupation connected with conservation, development, propagation of fish in any water area where such activity or occupation is carried on

- Fishing defined as any act or activity connected with the catching of fish from any water
- Private water defined as any water which is the exclusive property of any person or in which any person has for the time being an exclusive right of fishing whether as an owner, lessee or in any other capacity
- No fishing in any water or fish breeding unless licenced
- Anyone who was fishing before the act came into being, can continue to fish for 3 months from the act's commencement
- State can declare areas as fish sanctuaries for conservation purposes. Fishing in such sanctuaries is banned
- Constitutes the Karnataka Inland Fisheries Advisory Board -13 members . Includes 2 SC/ST members (one of whom must be a woman), 2 people from fishery cooperative societies and 1 person from the fishing community who is an active fisher

### **Karnataka Fisheries Policy (Draft, Year?)**

- Objectives are enhancing fish production for poverty alleviation, improving socio-economic conditions of fishers; meet nutritional needs of people; boost exports; maintain ecological balance; improve public health; and provide recreational facilities
- Notes that, in inland fisheries, policy intervention with respect to the quality of seeds, strengthening of infrastructure, proper leasing policy and use of recent technologies and also simple intervention of undertaking regular and periodical stocking of suitable water bodies with quality fingerlings can bring about significant development in the sector
- Recognises the difficulty in reconciling competing demands on water resources – irrigation, fishing, industrial use etc). Since fisheries is a non-consumptive use, the right to minimal water for fisheries must be ensured
- Notes that in the stand off between development and conservation, introduction of exotics for example must be done only after proper studies, ponds etc must be leased out on a long-term basis to poor and interested fishers/trained unemployed youth
- Need closed season for inland water bodies
- Need to rehaul reservoir fishing policies; emphasis should be on co-management of reservoirs for sustainable use that meets livelihood needs of nearby communities while maintaining the ecological balance
- A separate policy for reservoirs will be developed with a focus on conservation of indigenous fisheries resources

## **KERALA**

### **Kerala Inland Fisheries and Aquaculture Act, 2010**

- Fisherman means any person engaged mainly in inland fishing activity for his livelihood and includes wives of fishermen engaged in fish vending and widows of fishermen
- Differentiates between fishermen and fish farmer
- Private water body means any water body or a transformable area which is the exclusive property of any person or persons or any other person have for the time being an exclusive right of fishery whether as an owner or lessee or in any other capacity

- Power over fisheries and other activities in public water bodies is vested with the government but subject to the rights vested with the local self government institutions or water resources department
- After consultation with local self government bodies, government can declare aquaculture areas, though not in coastal areas (as defined by Coastal Aquaculture Authority)
- Government has power to formulate rules to manage aquaculture areas and to restrict land use change if needed
- Government may ban fishing of certain species, for a given time period, in specific places
- Fishing only through government issued licences
- Local bodies to have power to issue licences for fishing in waterbodies under their control though with the recommendation of the fisheries department
- Decisions taken by government that relate to waterbodies with local bodies, shall be done after consulting said local bodies
- Some restriction-related powers are vague- such as government can prohibit disturbing the ecological condition of water body or prohibit any destruction that endangers existing ecological conditions of the water body
- Government can regulate/ban poisons, electricity and explosives use in all waterbodies except for what is needed for aquaculture activities, construction of weirs, collection of specific species, culture of exotics, gear, culture of ornamental species, fishing in inland waters with mechanized boats
- Aquaculture to be done only with licence. Government will regulate on fish species, use of chemicals/antibiotics, stocking density, practices that impact agriculture, etc
- Need registration certificate to do any fishing – fixed, in fishing vessels, aquaculture etc. Transfer of gear, vessel also to be registered
- Government can restrict number of vessels –temporarily and permanently – and curb number of gears etc
- Government can restrict introduction of species that may affect existing fish biodiversity or harm the environment/humans
- Government can declare any public water body a fish sanctuary; local body should be consulted if waterbody is in their control. Also need to consult stakeholders and record rights if any, recognise and settle
- Fisheries Director shall manage fish sanctuary (declared under this act)
- Provides for penalties (seizure of gear, catch or fine) and searching of vessels
- Guilty until proven innocent: if caught with fish and corresponding gear, it shall be assumed the gear was used to catch the fish and this was done illegally until proven otherwise
- State and district fisheries management advisory committees with people from fisheries department, trade unions, fish farmers, local body, panchayats’ director, aquaculture authority, water resources department, biodiversity board, pollution control board and technical experts
- Repeals Indian Fisheries Act of 1897 in the Malabar district and repeals the Travancore-Cochin Fisheries Act of 1950 though any licences, rules, provisions made under these acts stand as long as they are not inconsistent with the provisions of this act.

### **Kerala Irrigation and Water Conservation Act, 2003**

- Fishing in reservoirs only with permission of irrigation officer

## **MADHYA PRADESH**

### **Madhya Pradesh Fisheries Act 1948 (amended 1981)**

- Fish includes shell fish and fish at all stages of life history
- Private water defined as water which is the exclusive property of any person, or in which any person for the time being has an exclusive right of fishery whether as owner, lessee or in any other capacity, but does not include any river, canal, stream, jhil, or any piece of water which ordinarily has direct communication with any river, canal, stream or jhil
- Water shall not cease to be private water because persons other than the owners have rights.
- Government can, by notification, apply such rules as it sees fit to private waters with the written consent of the owner and all persons having for the time being exclusive right of fishery
- Government can by making rules introduce area, season, gear (no, type and dimension) restriction (regulate through license) and conditions. Use of dynamite, poison, polluting waters, etc are all prohibited.

### **MP riverine fisheries rules, 1972**

- Prohibits fishing in specified waters except through licences
- Prohibits fishing in certain areas (listed in Schedule 1- most of the rivers listed) for varying time periods (whole year in 47 riverine fish sanctuaries listed in schedule 2, 2 months i.e. 16<sup>th</sup> June to 15<sup>th</sup> August) unless given permission by fisheries director
- Prohibits use of fixed engines unless given permission by fisheries director in these waters
- No weir, temporary or permanent dams can be built to catch fish in these waters
- Societies or their federation will be given priority when issuing fishing licences
- Specifies the gears licensee can use –classified by mesh size, long lines with hooks, rods, line, spears
- Licensee cannot fish in areas where it is prohibited by custom or religion
- Limits fishing to rod and line near bridges, public bathing areas, places of worship. Prawn nets (*jhingas*) cannot be used. Only one net can be used at a time
- Licensee cannot employ anyone who is unlicensed unless it is their child (under 16 yrs). For dragnet licence even this option is not there
- Fisheries department employees can catch fish for development and scientific purposes, nothing in these rules will impact this

### **Madhya Pradesh Fishermen's Cooperative Societies (Loans And Subsidies) Rules, 1972**

- Outlines purposes for which loans may be given – to purchase fishing apparatus, fish seed, repair of tanks/ponds, costs of management, payment of tank lease

### **Fish Culture Policy of Madhya Pradesh, 2008**

- Right to fish culture given to the three-tier panchayat system
- Fishers defined as those who earn their living by fish culture, fish capture or those who produce fish seed

- Water bodies below 1000 ha will be given to those local fishers who are below the poverty line for their livelihoods and will not in whatsoever condition be auctioned
- The priority will be given to fishing caste in the following order Dheemar, Dimar, Bhoy, Kahar (Kashyap, Singhraha, Sondhia, Raikwar, Badham), Mallah, Navda, Keuta (Mudha, Mudaha, Nishad), Keer, Manjhi
- The *patta* amount will be used to develop fisheries or for the development of traditional fishers
- All water bodies in which fish culture can be undertaken will be determined by one single policy irrespective of the department under whose jurisdiction the pond falls
- Water bodies till 1 ha will be given to individuals and in the following priority basis fishers by caste/ ST/SC/ OBC/ General BPL. 1-5 ha will be leased out to registered Fishermen Cooperatives and in the absence of cooperatives, lease will be given to SHGs or fisher groups accepted by the fishery officer
- The water bodies will be given on *patta* or lease in the priority as given below less than 10 ha – Gram Panchayat; 10-100 ha – Janpath Panchayat; 100-1000 ha – Jilla Panchayat; 1000-2000 ha – fisher federation; >2000 ha – Fisher Federation

### **The Madhya Pradesh Inland Fisheries Policy 2008**

- Priority in fish cultivation is given to traditional fishing castes. Individuals living below the poverty line have priority for ponds up to one ha in size
- The lease period increased from seven years to ten years
- The annual lease amount remains fixed for the duration of the 10-year period (compared with a 10 per cent annual increase previously)
- Leases are valid for all uses, including the cultivation of crops such as water lotus and water chestnut in pond beds during dry periods
- Revenues collected from leases are held by the panchayats and used for fisher welfare activities
- Co-operative societies should have a minimum of 20 members, more for larger ponds
- Women should make up at least 33 per cent of the membership of any new co-ops registered
- In the case of drought or natural disaster causing loss of fish stocks or damage to pond structures, the lease amount for that year will be waived and the government may provide some financial compensation
- Ponds should be managed sustainably – annual fishing bans will be enforced, along with restrictions on draining water from ponds

## **MAHARASHTRA**

### **Maharashtra Fisheries Act, 1960**

- Fish includes crustaceans, oysters and other shell fish
- Private water means water which is the exclusive property of any person, or in which any person has for the time being an exclusive right of fishery whether as owner, lessee or in any other capacity; but does not include any river, canal, stream, jhil or any piece of water which ordinarily has direct communication with any river, canal, stream, or jhil
- Water shall not cease to be "private water" because a person other than the owner may have by customary right of fishery
- Prohibits use of explosives, poisons

- State may also, by notification, apply such rules, or any of them, to any private water, with the consent in writing of the owner thereof, and of all persons having for the time being any exclusive right of fishery
- State can prohibit/regulate – fixed engines, construction of dams/weirs, net (mesh size, type, mode of use), use of weapons (gun, bow and arrow etc), discharge of liquid or solid that is harmful to fish
- State can prohibit fishing in specified waters for specified periods
- Does not talk of licencing or who can or cannot fish

### **Maharashtra Irrigation Act, 1976**

- Vests fishing, plying of boats in tanks and reservoirs (that are vested with the Appropriate Authority) with the Appropriate Authority (The act defines Appropriate Authority to be the State, Company or Zilha Parishad as the case may be)
- Appropriate Authority can dispose of fishing rights in such manner as prescribed

### **MANIPUR**

#### **Manipur Fisheries Act, 1988**

- Fish includes shell fish and fish at all stages of life
- Private waters defined as waters that are the exclusive property of any person/persons including religious institutions where the owner or his agent have exclusive fishing rights, and includes tank, pond, artificial lake etc excavated at owner's expense which has no communication in rainy season with natural waters
- Waters shall not cease to be private because any other person has usage or custom a right of fishery
- Act vests all declared fisheries with the fisheries department and directs that a list of such fisheries be published in the gazette
- State can declare any fishery as a declared fishery under this act. No rights in such a fishery shall be deemed acquired by anyone after this act is promulgated (except under the Rules of this Act)
- State can, under this act, regulate/prohibit fixed engines, construction of dams etc, nets (mesh size, type, mode of use), fishing season, weapons, poisons and explosives are prohibited
- State can also form rules to prohibit fishing except under licence issues by the State
- Licence holders cannot hire non-licence holders for fishing

#### **Manipur Loktak Lake (Protection) Act, 2006 (amended 2007)**

- No sale/lease/exchange/hire/mortgaging etc of any part of the Loktak Lake
- Usage of lake resources or associated knowledge for research or commercial use or for bio-survey and bio-utilisation requires prior permission of the Loktak Development Authority
- Authority permission needed to transfer results of research on the lake. This does not include publication of research papers, or sharing of information at seminars/workshops if the publications meet State guidelines
- Authority consists of various politicians, bureaucrats (from several departments), university vice-chancellors (a total of 36 people), and 3 non official members nominated by the State

- Within the core zone, cultivation/planting of athaphums (collection of phumdis; phumdis are a floating mass of vegetation)
- Athaphum-fishing is prohibited

## **NAGALAND**

### **Nagaland Fisheries Act, 1980**

- Fish includes fish, turtles, dolphins, aquatic plants of fisheries, whale and fish in all stages of its life history
- Private Water means water which is the property of any person or in which any person has for the time being an exclusive right of Fishery whether as owner, lease or in any other capacity, and includes tanks, ponds, artificial lakes, etc. excavated at the expense of the owner, which have no communication in the rainy season with natural waters, such as rivers, canals, streams and Jhils
- Water shall not cease to be 'Private Water' because other persons may have by usage or custom a right of fishery
- Rules under this act may be applied to private waters with the consent of the owner or person has for the time being an exclusive right of Fishery or if the State Government is satisfied that the consent is unreasonably withheld, without such consent
- No rules under this section apply to religious waters (belonging to religious institutions and which have never been fished because of religious beliefs)
- State can formulate rules to prohibit/regulate – fixed engines; destruction of fish by weapons, explosives, poisons; mesh size and other net-related features; fishing except under licence

## **ODISHA**

### **State Reservoir Fishing Policy (2003?)**

- Fishing rights of reservoirs above 40 ha (100 acres) with fisheries department; of those below 100 acres to Gram Panchayats to lease out to fishermen's cooperatives (registered under Orissa Cooperative Act 1962)/ SHGs. Initial lease will be for 5 yrs and may be extended to another 5 yrs
- If the reservoir is leased out to persons other than fishing community or fisher cooperative, the lessee should ensure that the members of the fisher cooperative is employed for fishing operations
- Wages will be equivalent to one third of the market value of the fish caught by the fishermen
- The reservoirs of the major, medium and minor irrigation projects, the fishing right of which has been transferred to Fisheries and Animal Resources Development Department shall be leased out to the nearest Primary Fishermen Cooperative Society/ Societies formed under the Orissa Cooperative Societies Act, 1962 or Society/ Societies registered under the Orissa Self-help Cooperative Societies Act, 2001 (P.F.C.S.)
- Preference will be given to displaced persons/ project affected persons (who are poor and interested in becoming active fishermen) in conferment of fishing rights
- In case a particular reservoir is leased out to more than one Primary Fishermen Cooperative Society (P.F.C.S.), the area allotted to each P.F.C.S. should be identified properly to avoid any dispute in future

- A lease value of Rs.300/- per hectare per year will be charged from this Primary Fishermen Cooperative Society/ Societies fishing in Minor reservoirs. This amount will be deposited by the concerned P.F.C.S. in one installment with the Fisheries & ARD Departmentt. which in turn will deposit an amount of Rs.60/- per hectare per year in Government Treasury in appropriate head of account. The balance amount of Rs.240/- per hectare per year will be deposited with the concerned Fish Farmers Development Agency (FFDA). This amount will be used for purchase of fish seed from the fish farms of Government/ Orissa Pisciculture Development Corporation Ltd. for rearing in the captive nursery and stocking in the reservoir every year.
- In case of medium and major projects, the lease value will be Rs.200/- per hectare per year out of which an amount of Rs.40/- per hectare per year will be deposited in the Government Treasury in the appropriate head of account. The remaining amount of Rs.160/- will be deposited with the concerned F.F.D.A. The amount of Rs.160/- will be used for purchase of fish seed from the Government Fish Farm/ O.P.D.C. farms for rearing in captive nursery and stocking in the reservoir every year. Collection of this fee will be done in 1 installment. In case of any particular reservoir where there is no existing P.F.C.S. the District Level Fisheries Officers concerned will take immediate steps to form P.F.C.S./ Societies.
- 3.2. Where no P.F.C.S. can be formed or the existing P.F.C.S. do not show interest in taking reservoir on lease, the said reservoir will be leased out to private individuals/ entrepreneurs/ public undertakings/ registered companies through open auction or sealed tenders and in that case the entire lease value would be deposited in the State Government account. In case the lessee is other than the P.F.C.S./ Societies the entire stocking responsibility should be with the private individual. In case of open auction, the auction will be conducted by the D.F.O./ A.D.F. in charge of the District. In case of sealed tenders, the tenders will be called and opened by the concerned D.F.O./ A.D.F. in charge of the District. The open auction/ tender should however be finalized with the approval of the concerned zonal level Deputy Director of Fisheries. The lessee/ successful tenderer shall have to engage genuine fishermen members of the PFCS/ fishermen of the locality for exploitation by paying fishing wages equivalent to one third of the market value of the fish caught by the fishermen. However, the Fisheries & ARD Department shall have the right to reserve any water body for research, training, extension and collection of brood stock.
- Operation of any mechanized/ motorized fishing boat in the reservoirs shall require prior permission of the Fisheries & ARD Department
- the initial lease/ auction period shall be for five years. The lease period may be extended upto another five years, subject to satisfactory performance of the lessee/ auction holder.
- Irrigation project's safety cannot be jeopardized by fishing.
- Fisheries & ARD Department shall have the right to declare any part of the reservoir as protected area for a particular period
- No exotic fish shall be introduced in the reservoir without prior permission of the Fisheries & ARD Department with a view to preserving genetic purity and germ plasma of the indigenous strain.

## **RAJASTHAN**

### **Rajasthan Fisheries Act, 1953**

- Fish includes shell fish

- Private water means water which is the exclusive property of any person or having right of fishery whether as owner, lessee etc
- Water shall not cease to be private water because other persons may have a customary right of fishery
- Prohibits use of explosives, poisons
- Rules can also apply to private waters if written consent of owners and all those with (for the time being) exclusive right of fishery
- Rules may prohibit/regulate – fixed engines, construction of weirs/dams, nets used, fishing methods, closed season
- Prohibit polluting of waters
- Cannot fish without licences. Licencee cannot hire non-licencee

## **TAMIL NADU**

### **Tamil Nadu Panchayats (Lease and licensing of Fishery rights in watersources vested and regulated by Village Panchayats and Panchayat UnionCouncils) Rules, 1999**

- Supersedes the 1983 rules
- Fishing in listed water bodies (listed at the end) can only be by licence issued by village panchayat or panchayat union council
- Licencee or authorised agent, if caught within 200m with the fish, have to prove how he came into possession of the fish
- Licence non-transferable except if the licencee becomes incapable of fishing or is physically handicapped or dies, the licence can transfer to legal heir
- Lease of fishery rights in waterbodies vested in panchayat. Lease is done through public auction
- Lease period of 5 years. 10% annual increase (over the previous year's lease) in lease
- Fisheries co-ops participating in the auction to be given preference if they match the highest bid
- Water sources that village panchayat can auction fishery rights for are - irrigation sources entrusted to panchayat union council that are maintained by them, non-provincial water sources of the pwd and maintained by them, irrigation sources entrusted to panchayat union council that are maintained by village panchayats and all public water bodies vested with village panchayats.

### **Agriculture policy note 2012-13**

- Baseline data on fisheries (and other areas) to be collected by extension officials of agriculture department. Integrate into agriset portal
- Develop integrated farming where animal husbandry, fisheries etc supplement farmer income

### **Fisheries policy note 2012-13**

- Claims that one of the major policies of the state government is to protect fishing rights of fishers
- In reservoirs, either licensing, share fishing or leasing. Managed by the State Fisheries Development Corporation. In share fishing, inland fishers cooperatives are to be involved

- Inland waters the focus should be on fast growing fishes and on cage culture/pen culture

### **Land Encroachment Act, 1905**

- Claims all public spaces as government property while recognising leases, customary rights, rights of way and other public rights

### **The Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007**

- Gives revenue department and pwd power to survey tanks and order encroachers if any to vacate the space within a given time period. The survey officer being the deciding authority on the time period.
- Encroachers who do not comply are liable to lose assets in the encroached space
- In the land spread and foreshore area of the tank, entry, cultivation, destruction of tank infrastructure and channels, obstruction of water flow, encroachment on adjoining poromboke lands, siphoning of water illegally through mechanical means are all punishable with imprisonment and/or fine
- Government can alienate any part of tank poromboke land without altering storage capacity and water quality, in public interest

## **UTTARAKHAND**

### **The Uttaranchal Fisheries Act, 2003**

- Government can introduce measures on gear use, area restrictions, and issues licences. Fishing in breeding seasons prohibited in river systems. Encouragement and training will be provided to communities like Bengalis, tribals, machchua, nishads, kashyaps etc who earn their livelihood from fishing
- Private waters means waters that are the exclusive property of a person or over which they have, for the time being, exclusive right of fishery, whether as a owner, lessee etc. This applies for tanks, artificial lakes etc, which have no communication in the rainy season with natural waters such as rivers etc
- Government can frame rules for waters, other than private waters. However these rules can apply to private waters as well, provided the owner and all those with exclusive right so fishery (for the time being) has given consent to the same. If the government believes that consent is being unreasonably withheld, it can override this clause. However these rules do not apply to religious waters
- The rules can regulate gear, management of fishery within check dams (even if the dams were constructed and are owned by other departments). Such fisheries would be vested with the fisheries department which can lease them to SHGs/fisheries cooperatives for fishing. The rules also allow for a licencing system for fishing including appropriate fees, killing of fish by poisons, or by specific gear, place time/season restrictions on fishing, size (of fish) restrictions, regulate transport, marketing, export (including price) of fish
- Government will promote fisheries societies formation to aid the empowerment of fish farmers. Also state will offer fish farmers incentives and trainings

### **The Uttaranchal River Valley (Development and Management) Act, 2005**

- Sets up a Uttaranchal River Valley Development Authority with some representation from zilha panchayats (of the relevant area) such as the chairpersons of these local bodies along with state government representatives from stakeholder departments. However the authority consists of mostly bureaucrats and government 'experts' on soil, water etc
- The authority is charged with developing and implementing a development plan that will ensure optimal usage of natural resources for integrated and sustainable development of the river basin. This would include water resources, land, agriculture and related matters. The act talks of afforestation (to reduce soil erosion, provide grazing for local communities' needs, maintain ecological balance of the ecosystem, monitor water quality to ensure rural communities receive clean water, and have effective redressal mechanisms)
- The act calls for creation of a master plan followed by sectoral plans based on this master plan. The act also requires the authority's permission for mining and construction in the river valley. However small local activities do not require this clearance such as small water mills, mining of minerals for household requirements by local communities

## **UTTAR PRADESH**

### **Uttar Pradesh Fisheries Act, 1948 (and)**

### **Uttar Pradesh Fisheries (Development and Control) Rules, 1954**

- Fish includes fish, turtles, dolphins, aquatic plants of fisheries, whale and fish in all states of its lifehistory
- Private waters means waters which are the exclusive property of any person or any religious body or institution or in which any person or religious body or institution has for the time being an exclusive right of fishery, whether as owner, lessee, or any other capacity and includes tanks, ponds, artificial lakes etc; excavated at the owner's expense, which have no communication in the rainy season with natural waters
- Waters shall not cease to be private waters because any other person has by usage or custom a right of fishery
- Government can frame rules for waters, other than private waters. However these rules can apply to private waters as well, provided the owner and all those with exclusive right so fishery (for the time being) has given consent to the same. If the government believes that consent is being unreasonably withheld, it can override this clause. However these rules do not apply to religious waters
- State can frame rules to regulate/prohibit –fixed engines; construction of weirs/dams; net usage (mesh size, type, mode of use); use of weapons, explosives, poisons; closed seasons; closed areas
- Prohibit the capture of attempt to capture or kill breeding fish in roe and milt except hilsa, can prohibit fishing except by licence
- Rules can prescribe formation of cooperatives to improve socio-economic status of fishers

## **WEST BENGAL**

### **West Bengal Fisheries Act, 1984**

- Classified fishermen as a person who by caste or profession is a fisherman and is mainly engaged in culture or capture of fish.
- Management measures on fisheries – such as use of gears etc is controlled by the government. The law also requires any structure built on natural water bodies to ensure fish movement is not blocked and calls for the construction of fish passes, fish ladders and such for the same.
- Disposal of effluents, use of poisons for fishing etc are prohibited.
- Any depression (artificial or natural) over 0.035 ha cannot be filled up or converted (land use).
- Government can also take over tanks etc which are not maintained for more than a stipulated period of time and can regulate the wage structure, and other labour related aspects.

### **West Bengal Inland Fisheries Rules, 1985**

- Calls for tanks with multiple owners to stock carps as well as small indigenous fish species. To lease tanks, lessee must have experience and finances to control, manage and use the tanks. Fishermen's cooperatives will be given preference in leasing.

### **SC JUDGEMENT ON COMMONS OF 2011**

- Notes that common lands were generally treated as inalienable
- Commons were vested in the State which handed the management to gram sabha/panchayat
- Notes that vesting of the commons with the State does not mean the common rights of the community was lost by such vesting (refers to Chigurupati Venkata Subbayya vs Paladuge Anjayya, 1972 (1) SCC 521 (529) where the court notes that the rights of the community over the disputed lands was not created by the landholder (ie the State) so rights cannot be said to be abrogated by the Estates Abolition Act)
- Refers to several earlier similar court cases from various States
- Directs all States to evict illegal/unauthorized occupants of gram sabha/panchayat lands which must be restored to the village organization
- Occupation (for whatever duration) and/or huge expenditure in developing infrastructure are not reasons for legalizing encroachments

(Note: This case arose out of a special leave petition filed from Punjab about a family usurping village grazing lands to build their house).

### **PENCH JUDGEMENT OF MARCH 1997**

- An environment group filed a PIL in the Supreme Court challenging the Chief Wildlife Warden's (CWW) issuance of 305 fishing licences to tribals, who earlier lived inside Pench National Park, for fishing in the Totladeh reservoir inside the park.
- Process of rights settlement done according to the Wildlife Protection Act of 1972 (WLPA) but no claims were made. Forest Department (?) said that this was because of illiteracy and lack of awareness but now (in 1996) claims were made by tribals who had been resettled out of the park, asking for their traditional fishing rights to be restored.
- 8 villages were resettled. But no final notification under section 35(4) of WLPA was done.

- The environment group's contention was that section 5 of IFA says that once a land is notified as Reserved Forest, no rights over that land shall be acquired except by succession, or by agreement entered by government when the notification was issued. So in this case, permits given later and so are not valid.
- The Collector in 1996 notes that 4 villages, of the resettled ones, were traditional fishers who earlier lived in the park and so have traditional fishing rights. Recommended recognition of 332 families rights to fish in the reservoir. Hence, the Forest Department gave 305 permits under section 33(e) of WLPA (as it is before the clause got deleted in 1991 amendment- pertains to CWW's powers to regulate fishing).
- Courts reading was that since permits were given in lieu of traditional rights, this doesn't fall under 33 (e). Though conservation is important, the livelihood needs of tribals are also important. Need to ensure when they get resettled, livelihood options are taken care of. It might have been better to let them fish in areas outside the National Park. But we don't know how feasible these are but State is trying to do this in regulated fashion with ID cards, seasonal ban, controlled entry (only daytime), and only one exit to take fish to market. Court laid more stipulations on Forest Department and asked that final notification of the park be done.