

WEST BENGAL

1. The West Bengal Fisheries Act 1984

An Act to provide for the conservation, development propagation, protection, exploitation and disposal of inland fish and fisheries in West Bengal

Fish - includes aquatic plants and animals in any stage of their life cycle;

Fisherman - means a person who is by caste or by profession a fisherman and is mainly engaged in culture or capture of fish

Fishery- any activity or occupation connected with conservation, development, propagation, protection, exploitation or disposal of fish and fish products, or any place or water area where such activity or occupation is carried on, and includes a tank fishery

Conservation

- Govt can by notification introduce area, gear restriction; construction of structures over water resources etc.
- No structures over natural waters without fish ladder or fishpass;
- Use of explosives and poisons to kill fish is prohibited;
- Discharge of industrial effluents, sewage or other waste is prohibited- contravention of the provision will attract fines or imprisonment or both; if any person found to cause any pollution could be asked to pay for cleaning up of the water body
- No artificial or natural **depression** measuring more than 5 cottahs (0.035 ha and holds water for at least 6 months) **should be converted or filled up**, no area should be divided to parts lesser than 0.035 ha – contravention of this will attract a fine of 2 lakhs or 2 yrs imprisonment or both

Management

- A multiple owned tank if not properly used and **if required for public purpose** will be taken over (after a months' notice to the owners) by the competent authority and given to any competent person, appropriate rent will be given to the owners
- The State Government may make rules regulating the **payment of wages**, either in cash or in kind or in both, **the weekly duty hours** and **other terms and conditions of employment of the labour** employed in fishing activity of any kind.
- Such rules may also provide for the mode of **settlement of disputes** between a fisherman and the **labour employed** by him.

2. The West Bengal Inland Fisheries Rules 1985

- The rules says that the multi-owned tank should be stocked by both cultivable carps (IMC and common, grass and silver) and **other cultivable species (SIFFS such as magur, singhi, kai, puntias, javanias, bata, sarpunti, galda, bagda, parse, bhangan and bhetki)**
- Eligibility for lease: experience, financial capability and factors which would provide for control, mgt and utilization of tanks. Preference of leasing out of tanks will be given to fishermen's cooperative.

UTTARANCHAL

1. The Uttaranchal Fisheries Act 2003

To provide for the management of fisheries

Fish- shellfish and finfish, turtles in all stages of lifehistory including aquatic plants used by fishes

Conservation and Mgt

- Govt can by notification introduce area, gear restriction and conditions;
- Fishing prohibited during breeding seasons in rivers and tributaries.
- Offences compoundable – using a net with mesh size smaller than prescribed; fishing without license; selling or attempting to sell fish of lower weight; killing/ catching/ selling of fish in closed season; fishing using banned fishnets; fishing with more than one prescribed net; license-holder employing non-licensee to help with the net; fishing in prohibited waters
- **Encouragement and training will be provided to communities like Bengalis, tribals, machchua, nishads, kashyaps etc who earn their livelihood from fishing**

ORISSA

1. Comprehensive Fisheries Policy (Section on Inland Sector)

Conservation and Mgt

- All open water bodies (irrespective of the dept of jurisdiction) to be brought under culture based capture.
- Ban on stocking exotic carps
- Closed season in riverine fishing 15 June – 15 August – develop alternative means of livelihood
- Control measures for riverine polln
- Shallow pools adjacent to rivers to be considered sanctuary
- Encourage small-scale fish farming

2. State Reservoir Fishery Policy, Orissa

Increase prodn, provide gainful employment to rural and fishing communities and economic rehabilitation of the displaced; increase pvt investment; switching from traditional method of fishing to new technology

Conservation and Management

- Catching of brood stock of economically valuable fish disallowed from 15 June to 31 August.
- Catching of IMC below 250 mm prohibited;
- gill net below 100mm size (Stretched not allowed).
- Use of dynamite, poison etc not allowed.
- Draining below dead storage level not allowed other than in the case of emergency. Irrigation will be given priority over fisheries.

- Industrial effluents and sewerage disposal into reservoirs not permitted.
- No exotic fish allowed without prior permission; encourage the native biodiversity
- Fishing rights of reservoirs above 40 ha (100 acres) with FARD; of those below 100 acres to Gram Panchayats to lease out to fishermen's coop (reg under Orissa Coop Act 1962)/ SHGs (SH coop act 2001). 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.**
- **Security of fishers** - Setting up of gillnets during night hours allowed, while harvesting and thorough fare in reservoirs disallowed from 6pm to 6am.

ASSAM

1. Assam Fishery Rules 1953

Fish includes shell fish and turtles

fisherman - not only by caste but who is actually fishing

Coop society with 100% fishers -will be considered so if not less than 80% of its members are actual fishermen from SC/ ST or Maimal community.

Conservation and Mgt

- Fishing in beels allowed only with lease
- Siltation happens and the land becomes dry the lessee does not have right over the land but only fishing rights.
- No beel to be drained dry.
- Maintenance of water body will be the responsibility of the lessee (water to be maintained clear of hyacinth; pollution etc).
- Fishing ban from 01 May to 15 June. Restriction could be relaxed for Hilsa Fishing.
- Beri jal, Mahajal and Fasijal always prohibited and any net with mesh size less than 7cm prohibited during fishing ban.
- Catching and selling of undersized fish even for self consumption is prohibited.
- **Use of net with mesh size lesser than 1 or 2 cm is prohibited from any fishery (this could be relaxed for catching small species like Mowa, Puthi, Sella and carati).**
- The authorities encourage longer lease period for protecting the biodiversity.
- 60% of the available fishery must be sold under tender system and that too only to cooperative formed with 100 percent fishermen belonging to SC/ maimal community (registered under Assam cooperatives society act 1949). The 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 could give 7.5% of the highest tender. If cooperatives are not able to offer even 7.5% of the highest tender then individual members from these fishing communities will be given preference; and they if

not present, individual members from other backward classes and SCs could get the tender at 60% 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% of the first year's revenue by groups formed by people other than fishers belonging to SC/ST or maimal community, if the gp has 100 % fishers then the security to be paid is only 10% 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 depty commissioner

Provisions for changes due to environmental conditions

When two fishery merge due to envtl changes no one could be debarred from fishing during the period of lease.

Provisions for the wellbeing of the communities

- fishing in govt fisheries **for own consumption** is allowed with a payment of dues (4 annas per instrument per annum) but more than 25 persons at a time is prohibited for the interest of the lessee and also the government and any defaulted will be punished. **(The lessee of any fishery should allow the nearby raiyats (the term used for hired labour in agricultural land) to catch fish for their own consumption on a payment of 4 annaas per net or basket per annum)**
- Depty 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 for the local consumption. The successful **tenderer should supply adequate quantity of fish to be fixed by Depty commissioner to the HQ towns of the District or any other locality or 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 could employ in the fishery people other than the locals belonging to the fishing community (SC/ST or maimal community).

Andhra Pradesh water, Land and Trees Act, 2002

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Section 19 (1)

No ground water resources shall be contaminated in any manner by anybody including industrial, local bodies and aquaculture waste disposal.

Section 19(2)

Direct disposal of waste into aquifers is prohibited

Chapter 4 – Surface water protection measures

20. The authority or any designated officer may direct the occupier of any land that land use shall be modified if the quality of the water coming from the land is not of acceptable quality compared to the prescribed

23 (1)

The Authority may notify water bodies like lakes, village ponds and minor irrigation tanks along with nalas (water course or drainage course) as heritage bodies and conservation areas to prevent conversion of their intended use and the authority shall take all measures to permanently demarcate the boundaries through the department of the Govt or the orgn concerned as per the memoirs of lakes/ tanks/ ponds/ nalas (water course or drainage course) and shall take measures to evict and prevent encroachment.....

23(2)

The designated officer shall have the power to prevent and remove encroachments into the demarcated area of the water body

23(3)

No undesirable waste including liquid wastes shall be allowed to be dumped in the water bodies by any person or organization

24(1)

The designated officer may prescribe ceiling on water usage per unit or production by any industry or commercial unit

(2)

The authority may levy cess or surcharge on the water used for production activities

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The Authority shall have power to designate an officer to be incharge of water bodies in the State, Municipal Corporations, Municipalities, Urban Areas or Gram Panchayats to ensure proper utilization and conservation of the water bodies.

The Andhra Pradesh Water Resources Development Corporation Act, 2004

(2) It shall extend to all the Rivers Valleys in the State of Andhra Pradesh and other area or areas, as the State Government may, notification in the official Gazette, specify

Chapter IV

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The functions of the Corporation shall be

- (a) To promote and operate irrigation projects and command area development, including flood control
- (i) To promote irrigated related activities such as fisheries, pisciculture, floriculture, horticulture, sericulture, tissue culture etc.

General Powers of the Corporation

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© to take measures to prevent pollution of any water under its control and to take all measures deemed necessary to prevent discharges into such water of effluents which are harmful to water supply, irrigation, public health or aquatic life

- (d) to stock its reservoirs or water sources with fish and to sell fish or fishing rights and prohibit taking out fish from water under its control
- (e) to assist the establishment of water users association

20 WUAs are responsible for the maintenance of canals and management of water

Andhra Pradesh Panchayat Act 1994

56 1(b) the fishery rights in minor irrigation tanks and the right to auction weeds/ reeds in such tanks and the right to plant trees on the bunds of these tanks and enjoy the usufruct thereof shall vest in the gram panchayat

Kerala Inland Fisheries and Aquaculture Act 2010

An Act to codify and amend the laws relating to inland fishery sector and to provide for the sustainable development, management, conservation, propagation, protection, exploitation and utilisation of the inland fishery sector in the State and **for promoting social fisheries** and to **regulate and control responsible aquaculture activities** and to **ensure protection of livelihood and traditional rights of fishermen** and to ensure the availability of nutritious fish and food security to the people and for matters connected therewith or incidental thereto.

Definition of fishermen includes 'fisherman' means any person engaged mainly in inland fishing activity for his livelihood and includes the wife of fisherman engaged in fish selling and the widow of a fisherman; 'inland fishery' means any fishery of fresh water fish or brackish water fish or other fresh water-brackish water, cold water, estuary water, ornamental fishery, backwater resources having fishery related value and commonly conducted in any public or private water body; (s) 'inland water body' means any private or public water body to be a transformable area utilising or utilisable for any fishery related activity within the State;

Notifying as aquaculture area – **the government can declare any water body as exclusively for aquaculture** – this is possible only after consultation with local self government institutions and in coastal areas it will be according to what is laid down by the CAA. **Fishing could be regulated in these areas.**

License to fish in water bodies under the control of local self-govt is vested in the local self-govt

Aquaculture activity is restricted through registration of aquaculture or license that should be procured.

The Act also suggests that the govt may by rules restrict/ prohibit permanently or temporarily the below said

- medicines, antibiotics, pesticides and pesticides for the use of aquaculture;
- conducting intensive/highly intensive aquaculture causing harm to environment;
- use of ecologically important areas such as mangrove areas or breeding centres of fish or nurseries for aquaculture;
- integrated fish farming detrimental to the paddy cultivation without rotation of crops;

- fish farming without considering the carrying capacity of inland water sources indiscriminately.

Granting licence

- No licence shall be granted by the authorised officer or the Local Self Government Institution for fishing or fisheries activities to any person or a non-fisherman unless he holds a certificate of registration under this Act:
- Provided that, licence in respect of fishing vessel, stake net, Chinese dip net, free net **shall not be granted to any person who is not a fisherman.**
- No licence granted under this Act shall be transferable
- Any licence granted before the enactment of this act stands cancelled

Protected Area/ Sanctuary

Govt can declare any water body if found critical with regard to fishery wealth or zoological or naturally or ecologically important as protected area or sanctuary under the recommendation of the technical committee. If such area situated under LSG then they will be consulted before declaring that part as PA or S

Whenever **any water body** in such area is **declared to be a protected fish sanctuary** the authorized **officer shall enquire** into and decide as to **the existence, nature and extent of the rights of any person in or over the area** comprised within the limits of the fish sanctuary after **verifying the revenue records.**

The Fisheries Preservation Scheme prepared under sub-section may provide for all or any of the following matters

The harmonization among the protection of livelihoods of fishermen and the fish sanctuary

Kerala Panchayati Raj Act 1994

218. Vesting of watercourse, springs, reservoirs, etc., in Village Panchayats. -

(1) Notwithstanding anything contained in the Kerala Land Conservancy Act 1957 (8 of 1958) or in any other law for the time being in force, all public water courses (other than river passing through more areas, than the panchayat area which the Government may, by notification in the gazette, specify), the beds and Banks of river streams, irrigation and drainage channels, canals, lakes, back waters and water courses and all standing and flowing water, springs, reservoirs, tanks, cisterns, fountains, wells, kappus, chals, stand pipes and other water works including those used by the public to such an extent as to give a prescriptive right to their use whether existing at the commencement of this Act or afterwards made, laid or erected and whether made, laid or erected at the cost of the panchayat or otherwise, and also any adjacent land, not being private property appertaining thereto shall stand transferred to and vest absolutely in the village panchayat: Provided that nothing contained in this sub-section shall apply to any work which is or is connected with a work or irrigation or to any adjacent land appertaining of any such work.

(2) Subject to the provisions of this Act, all rights and liabilities of the Government in relation to the water courses, springs, reservoirs, tanks, cisterns, fountains, wells, kappus, chals, stand pipes and other water works vested in the village panchayat under subsection (1) shall from the date of such vesting be the rights and liabilities of the village panchayat.

The functions of the village panchayat with respect to fishing includes

Development of fisheries in ponds, pisci-culture in fresh water and brackish water and mariculture.

2. Improvement of fish seed production and distribution of offsprings.
3. Distribution of fishing implements.
4. Provide assistance for fish marketing.
5. Provide minimum basic facilities for fishermen families.
6. Implementation of fishermen Welfare Schemes.

Function of block panchayat

Developing traditional landing centres

Functions of District Panchayat

1. Arrangements for fish marketing
2. Management of fish farm development agency.
3. Management of district level pisci-culture centres net making units, fish markets, feed mills, ice plants and cold storages.
4. Management of fisheries schools.
5. Introduction of new technologies.
6. Provide implements required for fishermen.
7. Promotion of fishermen's co-operative societies.

Kerala Water Policy 2008

The Fisheries and Water sector are inalienably related. Protection of water bodies to sustain traditional fishing activities will receive high priority. Appropriate measures for protection and development of water bodies will be adopted with a view to augmenting fish stocks and ensuring livelihood security to the fishing community. Participation of the stakeholders, departments, and agencies engaged in this sector will be ensured in these efforts.

Regulation of Prawn Fishing in Private Waters Rules, 1974

Apply to the whole state of Kerala except Malabar

No kind of prawn fishing will be allowed in any paddy field for any temporary or permanent basis except in such field which is unfit for cultivation. Prawn cultivation should not cause damage to adjacent paddy fields. Storing of water in fields is prohibited and any construction that would hinder the free flow of water is prohibited by this rule. However sluice fishing and stake net fishing is allowed.

Arunachal Pradesh Fisheries Act 2006

Definition of fish – includes finfish, shellfish, tortoise, and any other aquatic animals of economic importance

Definition of Fishery – water bodies declared to be fisheries by proclamation issued under section 3 of this Act and will not include any **such waters bodies on which indigenous communities have acquired customary rights of fishing**

Manipur Fisheries Act 1988

Fishery means a declared fishery and includes the area where the fishes declared to be the fish of that fishery can breed and rear

Once a fishery is declared by the state govt, the rights of either the individual or of groups will cease to exist other than the rights provided in the rules framed under this act.

The law could prohibit fishing except under a licence and regulate the grant of licence;
Could prohibit the movement of fishes outside the state more than the quantity prescribed in the licence

Manipur Panchayat Act 1994

The development of fisheries in the village is one of the function of the village panchayat
The Zilla Panchayat is responsible for the development of fisheries at the district level and it includes

- promotion of fish seed production and distribution;
- development of pisciculture in private and community tanks;
- development of inland fisheries;
- promotion of fish curing and drying;
- assistance to traditional fishing;
- organising fish marketing co-operatives; and
- welfare schemes for the uplift and development of fisherman.

Loktak Lake Protection Act 2006

No person without the previous approval of the Authority obtain any lake resources or knowledge associated thereto for research or for commercial utilization or for bio-survey or bio-utilization

No person without approval should transfer the result of any research about the resources of the Lake

Activities prohibited in the core zone

- Discharge or emit any sewage or domestic waste into the lake
- Plant or cultivate athaphum
- Deposit or fix any stones, bamboo, log, net etc into the lake for the purpose of rearing fish
- Build any hut or house on the phumdis inside the lake
- Engage in athaphum fishing in the lake
- Use of any fish feed or pesticides inside the lake unless with prior permission of the LDA

Right to Fisheries

The authority can declare any fishery and once declared no one (individual or group) can stake any claim in the name of rights that was present before the declaration or after the commencement of this Act except as provided by the rules of this act.

The Manipur Loktak Lake Protection Rules 2008

Access to Lake Resources for any commercial purpose can be obtained from the Project Director. However there is complete absence of any mention about access to pursue a traditional livelihood such as fishing and sustenance of the community formerly dependent on the lake resources.

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

*It is considered necessary to **conserve develop and regulate inland fisheries in the State**, as the existing Acts namely, the Indian Fisheries Act, 1897 (Central Act IV of 1897), the Fisheries (Madras Amendment) Act, 1927 (Madras Act II of 1929), the Hyderabad Fisheries Act 1356 Fasli (Hyderabad Act 23 of 1356 Fasli), the Mysore Game and Fish Preservation Act, 1901 (Regulation II of 1901) which are in force in several parts of the State do not provide extensive provisions in this regard and to **repeal these Acts to the extent they relate to fish and fisheries**. It is also considered necessary to **prevent extinction of different types of rare species of fish like Mahassar, Game fish, Live fish etc., by prohibiting fishing during the period from June to September**. It is also necessary to preserve, develop and regulate the inland fisheries in a scientific manner and to provide for matters connected therewith.*

Fishing can be done only if one has a license procured under this act. The application for fishing license should be given in appropriate form. Persons who were fishing prior to this act can continue to do so if s/he has applied for a license in the first three months of the act coming into force. The state govt also has the right to declare any water body as a sanctuary with the purpose of protecting and conserving its fisheries.

Karnataka Land Revenue Act, 1964

'land' includes the sites of villages, towns and cities, trees, growing crops and grass, fruit upon, and juice in, trees, rights of way, ferries and fisheries;

Any person acquiring by succession, survivorship, inheritance, partition, purchase, mortgage, gift, lease or otherwise, any right as holder, occupant, owner, mortgagee, landlord or tenant of the land or assignee of the rent or revenue thereof, shall report orally or in writing his acquisition of such right to the prescribed officer of the village within three months from the date of such acquisition, and the said officer shall at once give a written acknowledgment of the receipt of the report to the person making it:

Whenever it appears to the State Government that the whole or any part of any public road, street, lane, or path which is the property of the State Government, is not required for the use of the public, the State Government may, by notification, make a declaration to such effect, stating in such declaration that it is proposed that the rights of the public as well as of all persons in or over any such road, street, lane or path, or part thereof, as the case may be, shall be extinguished. On the publication of such notification, the Deputy Commissioner, shall, as soon as possible cause public notice of such declaration to be given at convenient places on, or in the vicinity of, such road, street, lane or path, or part thereof, as the case may be. Such declaration and notice shall specify, as far as practicable, the situation and limits of such road, street, lane or path or part thereof, and shall invite objections to the aforesaid proposal.

Any member of the public or any person having any interest or right, in addition to the right of public high-way, in or over such road, street, lane or path or part thereof, or having any other

interest or right which is likely to be adversely affected by the proposal may, within ninety days after the issue of the notification, under sub-section (1), state to the Deputy Commissioner in writing his objections to the proposal, the nature of his interest or right and the manner in which it is likely to be adversely affected and the amount and particulars of his claim to compensation for such interest or right:

73. Recovery of value of natural product unauthorisedly removed from certain lands .- (1) Any person who shall unauthorisedly remove from any land which is set apart for a special purpose or from any land which is the property of Government, any natural product shall be liable to the State Government for the value thereof which shall be recoverable from him as an arrear of land revenue, in addition to any penalty to which he may be liable under this Act for such unauthorised removal; and notwithstanding any criminal proceedings which may be instituted against him in respect of such unauthorised removal. The decision of the [1] [Tahsildar] as to the value of any such natural product shall be final.

Karnataka Panchayat Raj Act 1993

The duties of the Zilla Panchayat includes to

Promote fisheries in irrigation works vested in the Zilla Panchayat

Promotion of Inland, Brackishwater and marine ***fish culture***, etc.

WEST BENGAL COURT RULING – ZERMAN GOMEZ V MAHIMA CHANDRA KAIBARTA, 1934

Case concerning existence of exclusive fishing rights in a stream that has become connected to the main river, in which such exclusive fishing rights exist, by an artificial channel. The Court ruled that the stream in question was not navigable and as under Indian law in non-navigable stream rest with the riparian owner and not with the Crown, no exclusive fishing rights could be said to exist.

It is well settled that in India the right of fishing in nonnavigable rivers is not in the Crown, but is in riparian proprietors. When such a river passes entirely through the estate of one he has the right of fishing and when it passes in between two estates the proprietors thereof have the right to the soil according to the principle of *usque ad medium filum aquae* and the equal right of fishing in the portions of the river adjacent to their lands: *Raja Neelanund v. Raja Tek Narain* (1862) Oal SDA Rep 160, *Sreemantu Bagdi v. Nirantar Jelina* (1913) 19 IC 893 and *Khagendra Narain v. Matangini Debi* (1890) 17 Cal 814. The Government has the right to the fisheries in large navigable rivers only and as the claim to a several fishery by a private person can only be founded upon a grant from the Crown, either proved or presumed, it would follow that where a several fishery is claimed by a private individual in the natural streams in a *perganah* or *perganaho* the right claimed can be over navigable rivers only, or those portions of a river which are navigable, on the principle that a grantee cannot have a right in what the grantor had not. In any event such a grant can confer on the person to fish only in natural watercourses and not in those made by the hand of man.

(i) that a several fishery in India as elsewhere must be founded upon a grant from the Government, (ii) that the river need not flow over the land of the Government, the right of the Government to the fishery does not depend upon its ownership of the soil but, upon navigability of the stream, (iii) that there is no difference whether the change in the course is gradual or sudden and (iv) that the grantee from the Government can follow the shifting channel of the navigable river, and his right to fish therein is not affected by the said channel passing over the lands of a private person. In the course of the judgment the case of *Tarini v. Watson & Co.* (1890) 17 Pal 963 is noticed and approved by Lord Sumner and the ratio of that decision in my judgment furnishes an answer to the case before me. There the defendants (*Watson & Co.*) had a several fishery in the river.....

.....but the principle laid down was that so long as the river retains its navigable character, it is subject to the right of the public and the right of fishery remains in the person who held it under a grant from the Government.

West Bengal Municipal Act 1993

The chairman-in-council can regulate or prohibit fishing in public water courses, springs, tanks, wells, etc. which falls within the Municipal limits.