



Fisheries Legislation and its Impact on Inland Fisheries in India

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Presentation outline



- 1. Context**
- 2. Law & Regulation governing Inland fisheries**
- 3. Divergence and Convergence in state laws**
- 4. Institutional Processes & Governance**
- 5. Human right to fishers**
- 6. Rules relating to conservation**
- 7. Constraints, Challenges and Choices**
- 8. Suggestions**



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Inland Fisheries Resources of India and their Management



Sl. No.	Resources	Size (Ha)	Management
1	Rivers & canals	191024 Kms	Capture
2	Mangroves	356000	Conservation
3	Estuaries	300000	Capture
4.	Estuarine wetlands (Bheries)	39600	Aquaculture
5.	Backwater/Lagoon	190500	Capture
6.	Large and Medium reservoirs	1806780	Capture/Enhancement
7.	Small Reservoirs	1509457	Culture based
8.	Floodplain wetlands	554213	Culture based
9.	Upland lakes	720000	Traditional fisheries
10.	Ponds & tanks	2360000	Aquaculture



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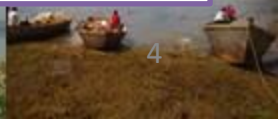




Features of Inland Fisheries



- India is second largest fish producer of Inland fisheries after China.
- Inland fisheries in India comprise water resources like rivers, reservoirs, floodplain wetlands, lakes, derelict water bodies and tanks.
- Most of the fishers live in rural and remote areas, preferably in surroundings of water body.
- The access rights of inland fishers to the resources depend on the state fisheries law.
- Multiple user / ownership/ stakeholder
- The fishers are unorganized, even the fishers cooperative in India are extremely weak.





Law & Regulation governing Inland Fisheries





Laws and regulations governing fisheries in Pre Independence Era



- By Regulation XXVII of the Permanent Settlement of 1793 in Bengal, (the rights over fisheries held by the zamindars or the landlords. Zamindars leased out these rights over fisheries to farmers, moneylenders, and occasionally to the fisher)
- *Canal and Drainage Act 1873*
- The Indian Fisheries Act, 1897 (Central Act IV of 1897)
- Mysore Game and Fish Preservation Act, 1901 (Regulation II of 1901)
- Punjab Fisheries Act 1914
- The Hyderabad Fisheries Act, 1356 Fasli (Hyderabad Fishers Act 23 of 1356 F) 1925
- The Fisheries (Madras Amendment) Act, 1927 (Madras Act II of 1929)
- *The Government of India Act, 1935*



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Articles and Rules related to water and fisheries under Constitution of India



Article 48(A) " State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country." Article 48A was added by Constitution (42nd Amendment) Act, 1976

Fundamental Duties

Article 51A. It shall be the duty of every citizen of India—

- (g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;

Disputes related with water

Article 262

- (1) Parliament may by law provide for the adjudication of any dispute or complaint with respect to the use, distribution or control of the waters of, or in, any inter-State river or river valley.
- (2) Notwithstanding anything in this Constitution, Parliament may by law provide that neither the Supreme Court nor any other court shall exercise jurisdiction in respect of any such dispute or complaint as is referred to in clause (1).





Articles and Rules related to water and fisheries under Constitution of India



Article 256

Schedule 7

List I Union List

- 56. Regulation and development of inter-State rivers and river valleys to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest.
- 57. Fishing and fisheries beyond territorial waters. (Marine Fisheries)

List II State list

Matter related to Water and Fisheries

- 17. Water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage and water power subject to the provisions of entry 56 of List I.
- 18. Land, that is to say, rights in or over land, land tenures including the relation of landlord and tenant, and the collection of rents; transfer and alienation of agricultural land; land improvement and agricultural loans; colonization.
- 21. Fisheries



State Inland Fisheries Legislation



- **UP Fisheries Act 1948**
- **MP Fisheries Act 1948**
- **Chhattisgarh Fisheries Act 1948**
- **Assam Fisheries Rules 1953**
- **Rajasthan Fisheries act 1953**
- **Rajasthan Fisheries Rules, 1958**
- **Maharashtra Fisheries Act 1960**
- **Maharashtra Fisheries Rules, 1969**
- **Punjab Fisheries Rules, 1965**
- **Haryana Fisheries Rules, 1996**
- **The Himachal Pradesh Fisheries Act, 1976**
- **Himachal Pradesh Fisheries Rules, 1979**
- **West Bengal Inland Fisheries Act 1984**
- **West Bengal Inland Fisheries Rules 1985**
- **Manipur Fisheries act 1988**
- **The Karnataka Inland Fisheries (Conservation Development and Regulation) Act, 1996**
- **Uttarakhand Fisheries Act 2003**
- **The Gujarat Fisheries Act, 2003**
- **Gujrat reservoir Fisheries Policy 2004**
- **Bihar Fish Jalkar Management Act, 2006**
- **Arunachal Pradesh Fisheries Act 2006**
- **The Kerala Inland Fisheries and Aqua Culture Act, 2010**
- **Jammu and Kashmir Fisheries Act 2018**



Divergence and Convergence in State Laws



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Convergence of State acts



- **Control, regulation and ban on destructive Crafts and Gears**
- **Preference to Primary fisheries Cooperative society in Access/lease (Protection of the interest of traditional fishers)**
- **Wanton killing of fish juveniles, fish brooders and other organisms as cognizable offence**
- **Mass killing of fish and associated fauna using poison, plant origin or synthetic, dynamite and so on shall be treated as a punishable act**
- **Encroachment or reclamation of Rivers, Lakes and Wetlands, either for arable land or human habitation or any other purposes, which leads to colossal loss of aquatic resource and associated utility functions . Criminal act**
- **Allocation of fishing rights in waterbodies of 1-300 (in some states up to 1000 ha) by Tri level Panchayati Raj system.**
- **Lease period not less than 5 years (long term management perspective) in open water bodies**
- **Closed season or fishing holidays for 60 days (some states 75-90 days)**
- **Enforcement of size regulation on fish catch and application of mesh regulated gears so as to conserve the breeding population in sizeable number.**



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Divergence of State Act



- Different period of lease for ponds and tanks
- Definition of fisherman
- Rule on size of catch differs with states
- In some states riverine fisheries under leasing system
- Ownership of waterbodies for fisheries
- Lease value fixation



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Institutional Processes & Governance

Assam, Bihar, UP, MP, Chhattisgarh,
Gujarat

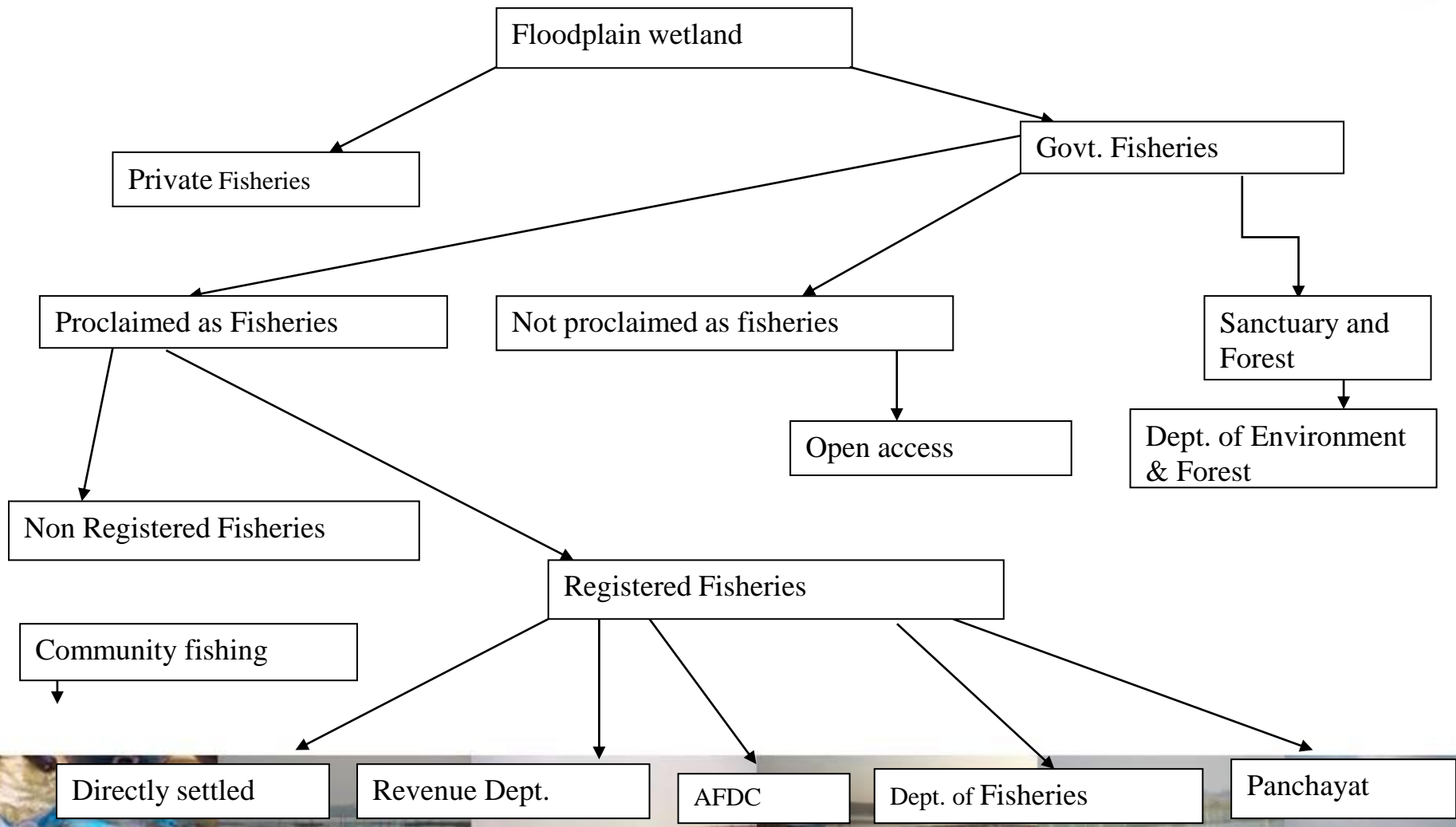


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Formation, transfer of fishing Right in Assam





Formation of the ownership, control and transfer of fishing rights



Controlling agencies	Purpose	System of transfer or license	Term	Criteria for selection
Revenue dept (DC)	Collection of revenue; Utilizations by fishing populations	Open tender system of price fixed on the basis of produce in one year till January 31 st	7 years	Highest bidder or to Fisherman Cooperative if within 7.5% range of highest bid
Dept. of Fisheries (Director of fisheries)	Collection of revenue; Utilization by fishing populations	tender to highest bidder to fishermen community or fishermen Cooperative	7 Years	-do-
Assam Fisheries Development Cooperation (PD)	Development of fisheries; Better utilization by fishing populations	leasing by tenders to fishermen community or fishermen Cooperative	7 years	-do-
Dept Environment & Forest (DFO)	Conservation of the resource, Protection of wild life	wetlands are not given on lease and fishing is only restricted for locals for sustenance	No license	
Panchayat dept (Gram Pradhan)	Betterment of the fishing populations; Revenue collection	Direct transfer or limited tenders to the villagers or individuals	7 years	Local fisher cooperative or beel development committee



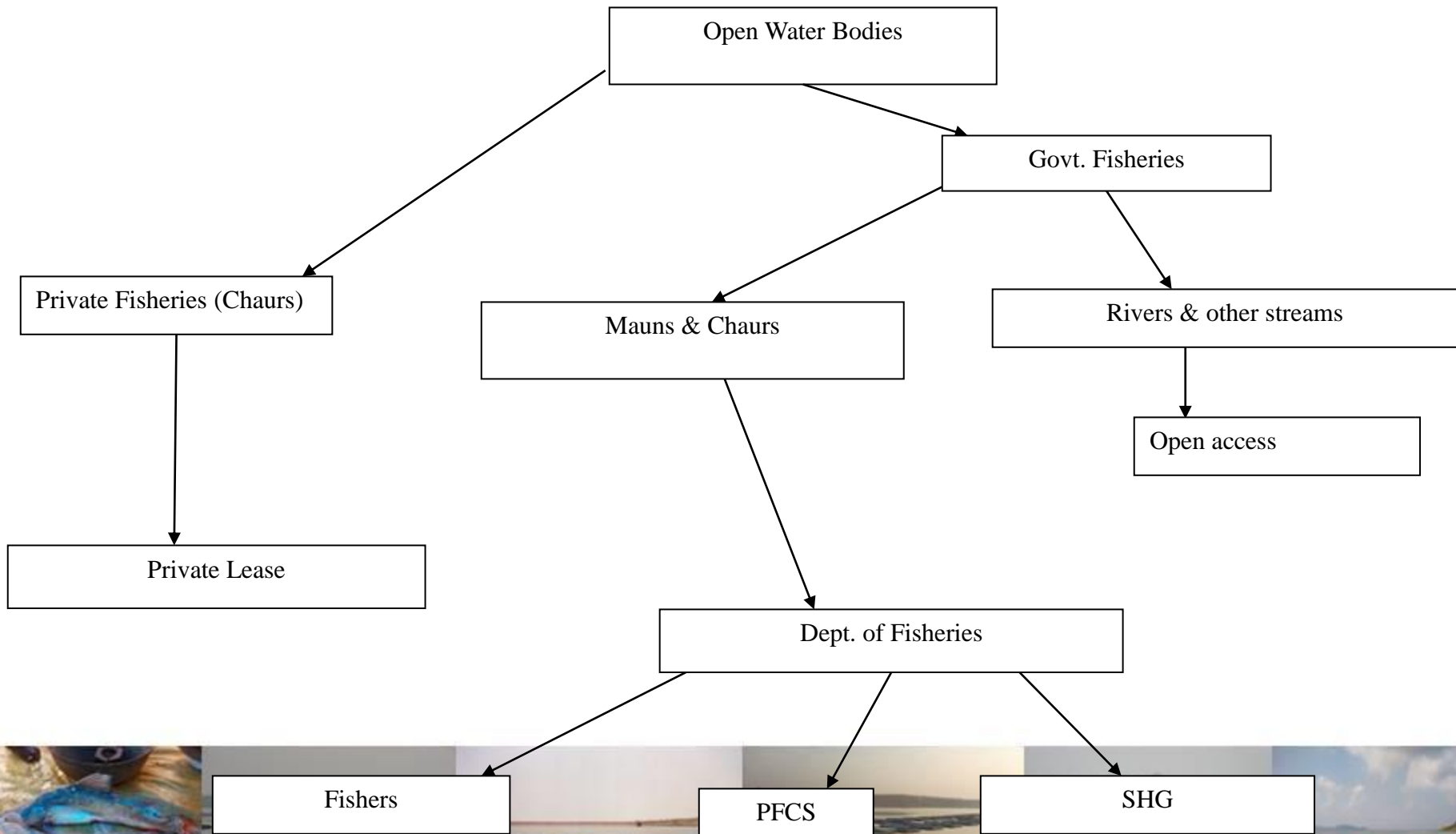
Tenurial rights of Riverine & wetland fisheries of Bihar



Period	Ownership	Fishing Access	System of governance
1567-1989 (Riverine)	Two water-lords ownership (by Mughal emperor) (Bhagalpur sultanganj stretch)	Restricted to fishing labours	Revenue based up to 90% of catch
1773-1950 (Wetlands & tanks)	Kingdom or Jamindars	Fishers of the kingdom	Revenue based 40- 60% catch
1950-1990	Water-lords under Jamindari act 1773	Restricted to fishers who pay taxes, Royalty	Revenue based up to 75% of catch
1990-2006	Government	Open access	Welfare based
2006 onward	Government under Bihar Fisheries Jalkar act 2006	Open access to traditional fishers, FCS	Welfare based
Riverine			
Wetland		Highest bidder fishers, FCS	Revenue

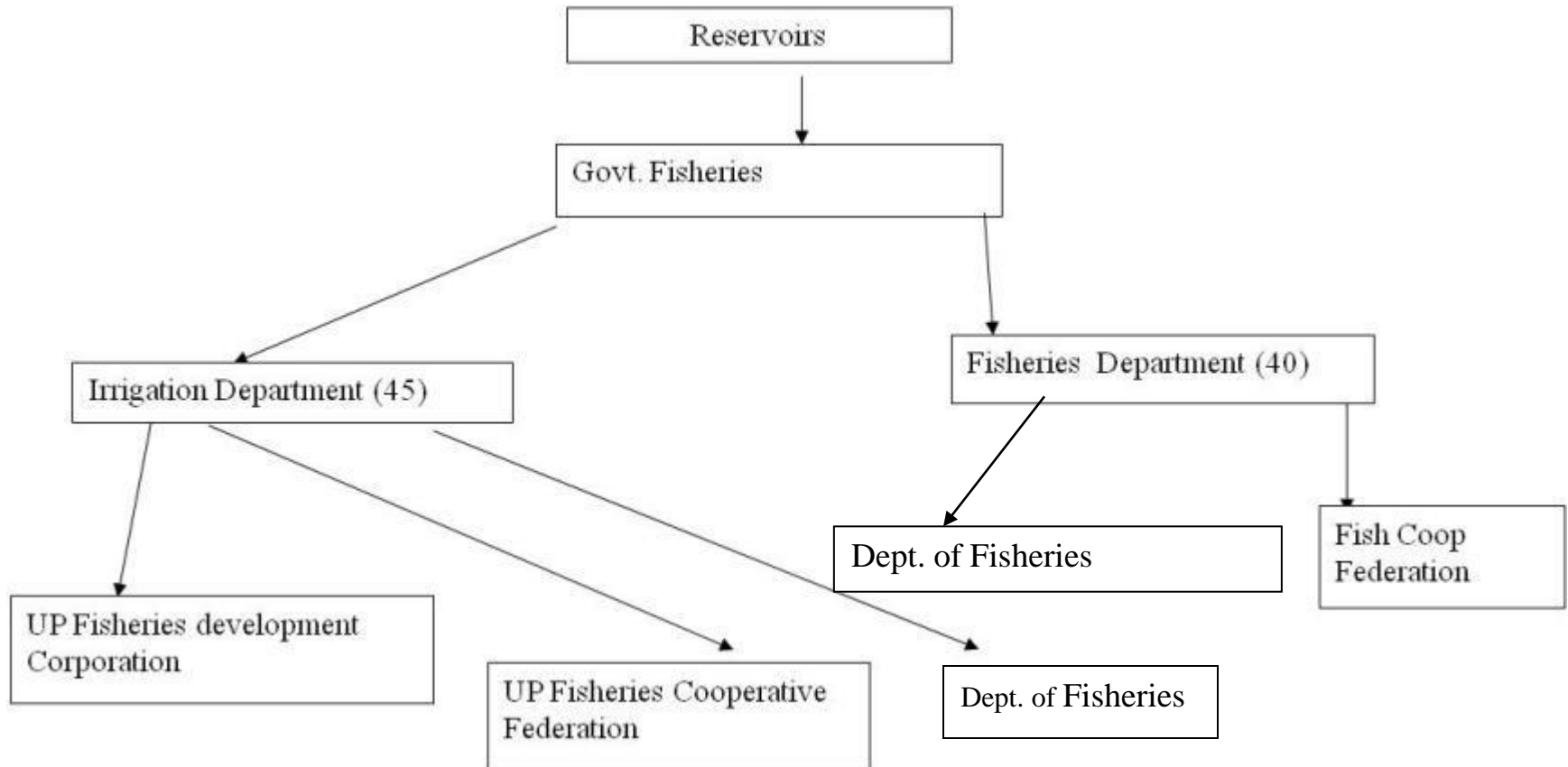


Formation & transfer of fishing Right in Bihar





Formation & transfer of fishing Rights in Uttar Pradesh



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Institutional arrangement in UP



- Water bodies in Uttar Pradesh are classified in seven classes as per the government order.
- Lease of waterbody allocated only in first four classes. Class 5-7 are open access mainly rivers.

Class 1 & 2

- Fishermen cooperative society and contractors both can bid for the fishing rights in this water bodies.
- The leasing rights will be given to the highest bidder in the bidding process.
- Stocking of fingerlings is the responsibility of the department but lessee has to pay the full price.



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Leasing System in Class 3-4 water bodies



Cycle 1

- PFCS or SHG registered in Gram Sabhas falls within geographical boundary of water bodies

Cycle 2

- Participants of cycle 1 + sub divisional or district Level PFCS can also participate

Cycle 3

- Participants of cycle 2 + PFCS registered at Commissionerate level

Cycle 4

- Participants of cycle 3 + any PFCS of the state can participate

Cycle 5

- If minimum bid amount not received, apart from PFCS + contractors





Fisheries Institutional arrangement in MP reservoirs



- Fishing in the reservoirs allowed only to the member of fishermen cooperative who were affected during the construction of the dam and reservoirs and whose house comes within 1 km area of impoundment
- For selling of harvested produce lease is given to the highest bidder on the basis of open tender system.
- Fishermen cooperative society/ Registered commercial firm/ individual can participate in the bidding process.
- The lessee will collect the fish catch from the members of fishermen cooperative society and sell it with the restriction that 10% of the catch must be sold in local market.

Chandra, Ganesh., Katiha, P. K., Sharma, A. P., Ekka, A., and Biswas, D. K. (2014). Institutional arrangement and governance in fisheries of large reservoir in India: a case study of Indira sagar reservoir, Madhya Pradesh. *10th Indian Fisheries and Aquaculture Forum*. NBFGR, Lucknow 12-15 November, 2014



People Public Private partnership model In Large reservoirs of MP



- Fishing in the reservoir is sole right of members of cooperative societies. (Peoples)
- MP Fishermen Cooperative Federation is the nodal agency of fisheries of the reservoir. (Public Authority)
- Lease is only for selling of the harvested produce. Lease is given to the highest bidder on the basis of open tender system. (Private)
- Fishermen cooperative society/ Registered commercial firm/ individual can participate in the bidding process.
- The lessee will collect the fish catch from the members of fishermen cooperative society and sell it with the restriction that 10% of the catch must be sold in local market. (Private)
- This model can also be termed as **Public Private Community Partnership (PPCP)** model





Leasing system as adopted by Chhattisgarh fisherman apex Cooperative Federation

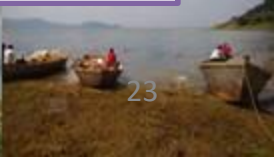


Water Resources above 1000 ha to 5000ha was allotted to Chhattisgarh Matsya Mahasangh on royalty basis.

- Lease period on each case has been extended for 7 years
- Lease rent is Rs.2000/- per ha with an annual increment of 10%.

Priority list to lease water resources as follows:

- Registered Primary Fishermen Cooperative Society.
- Fishermen group.
- Individual fisherman
- Persons displaced on account of submergence caused by irrigation.
- Self Help Group in absence of above four





Lease Value fixation in Assam

The minimum lease value will be fixed at 15% of the gross revenue from the fishery, which will be calculated as per the following formula:

$$L = (Y \times P \times A \times 15) / 100$$

Where

- L = Lease value in Rupees
- Y = Yield rate in Kg/ha
- P = Price of fish at landing sites in Rs/ Kg. (on 1st January of year of tender)
- A = Area of beel in hectare

The formula is with the following assumption

1. Cost of production = 50%
2. Managerial expenses = 15%
3. Lessee's profit: 20%
4. Revenue: 15%

Lease value fixed with a 10% annual increment



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Lease value fixation in Madhya Pradesh



Rural ponds	
Seasonal ponds (0-10 ha)	Rs. 300 / ha
Non- seasonal pond (0-10 ha)	Rs. 500/ ha
Above 10 ha	Rs. 300/ ha (for seasonal) Rs. 500 /ha (non- seasonal)
Reservoirs	
10 to 50 ha	Rs. 200/ha
50- 200 ha	Rs. 150/ha
200 to 1000 ha	Rs. 75 /ha
2000 & above	Fixation on basis of value total allowed catch



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Computation of effective water area in Gujarat



Month wise figure of last six year are computed based on this formula

- September 1X
- October 1X
- November 1X
- December 2X
- January 2X
- February 3X
- March 3X
- April 4X
- May 4X

Sum total of this is divided by 21 and result known as effective water area. The base price for lease fixation is being calculated on the water area discovered through this calculation.



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Base price of lease rent fixation in Gujarat



S. No.	Area of reservoir	Base Price (Rs)
1	Up to 20 ha	480/ha
2.	21-200 ha	9600 + 365/ha
3.	201-1000 ha (Small reservoir)	75300 + 235/ha
4.	1001-5000 (Medium Reservoir)	2,63,300 + 90/ha
5.	5000 and above (Large Reservoir)	6, 23, 300 + 85/ha





Tenure or leasing policies in different states



State	Type of reservoir	Lease period	Authority having Management right	Lease for	Lease to
Madhya Pradesh	100-1000 ha	5 years	Zila Parishad	Fishing	Fishermen, Coop, SHG
	1000-2000	5 years	Fisheries Dept	Fishing	
	2000- above	5 years	MP fish cop fed.	Only marketing (fishing with community)	
Uttar Pradesh	All reservoirs	5 years	Fisheries dept, UPFDC, Fish Fed	Fishing	Fishermen, Coop, SHG, Contractor
Assam	All water bodies	7	Revenue, Fisheries	Fishing	Fishermen and Cooperative
Bihar	All water bodies (under new bill 2013)	7-10	fisheries	Fishing	Fishermen and Coop.
West Bengal	All water bodies	5-12	Fisheries, irrigation	Fishing	Fish Coop. society



Tenure or leasing policies in different states



State	Type of reservoir	Lease period	Authority having Management right	Lease for	Lease to
Chhattisgarh	200-1000 ha	5 years	Fisheries dept	Fishing	Fishermen, Coop, SHG
	1000-5000	5-7 years	CG fish cop fed.	Fishing	Fishermen, Coop, SHG
	5000- above	10 years	Fisheries Dept	Fishing	FCS, Contractor
Gujarat					
North Gujarat	200 & above	5-10 years	Fisheries Department	Fishing	Fishermen, FC Contractor
Tribal area	20-1000	5-10 years		Fishing	Tribal Coop S
	1000- above	5-10		Fishing	Tribal Co Federation



Human rights to fishers



- The **human right to water is *sine qua non* for leading a life** in human dignity. It is necessary to produce food (including fish) and ensure environmental hygiene and essential for securing livelihood.
- The **livelihood is the core of society-fisheries interaction**. Livelihood operates in a larger context of the social, political and economic welfare of the people.
- The fisheries can be seen as the resources that either complement or supplement the entitlement of the people in a larger way.
- The **state and dynamics of the livelihood is related directly to the access of resource**, fisheries management as well as the social context of its management.
- Most of the **states supports the customary right of fishers, tribal fishers** to fish in open water bodies.
- **Primary fisherman Cooperative society or fishers have got exclusivity in allocation of fishing license in large waterbodies**. States like Bihar, Madhya Pradesh, Gujarat, Assam, West Bengal, UP(except class 1,2 of water bodies), Kerala, Chhattisgarh, Odisha.



Articles and Rules related to Fishers livelihood under Constitution of India

Fundamental Rights

Article 21 Protection of life and personal liberty No person shall be deprived of his life or personal liberty except according to procedure established by law (Right to livelihood)

Directive Principles of State Policy

Article 38: state to secure a social order for the promotion of the welfare of the people

- by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.
- in particular, strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.

Article 39: The State shall, in particular, direct its policy towards securing

- (a) that the citizen, men and women equally, have the right to an adequate means of livelihood;
- (b) *that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;*



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Who is fisherman



In **Assam** the persons belonging to the schedule castes, community (Maimal community in Barak Valley) and engage themselves in any of the following profession:

- that the persons undertake fishing by themselves in a fishing group
- that the persons directly undertake fish trade such as marketing of fresh fishes, preserved fishes, other preserved fishes, fishing implements etc.
- members of the fishermen cooperative societies undertaking fishing or fish trade etc. as in (ii) above.

More or less same definition in Bihar for traditional fishers

Kerala

- The person engaged mainly in inland fishing activity for his livelihood including wife of fisherman engaged in selling fish and the widow of the fisherman.

In MP, UP, Uttarakhand several castes are marked as fishermen who undertake fishing



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Bidding preference to Cooperative Societies



- Preference to PFCS over other fishers/ contractors/ private parties in bidding of license. Lease awarded to PFCS if they bid within the range of highest bid
- Assam: 7.5%
- Haryana: 10%
- Rajasthan: 5%
- Primary fisherman Cooperative society or fishers have got exclusivity in allocation of fishing license in large waterbodies in States like Bihar, Madhya Pradesh, Gujarat, West Bengal, UP(except class 1,2 of water bodies), Kerala, Chhattisgarh, Odisha.





Benefit Sharing arrangement in Assam Wetlands



On the basis of Management regime					
Beel Management	Approach	Governanace	Fishing	Sharing Arrangement	
				Fishers	Lessee
Community based fisheries Management	Community based	Designed to provide the means to local communities	Community	Fixed on the criteria by the beel development committee (membership to every household of the nearby area of the beel)	
Cooperative Based Management	Access and benefit sharing	Designed to address equitable access	Cooperative members	50	50
Individual management	Access and benefit sharing	Designed to address equitable access	With stocking	30-40	60-70
			Without stocking	40-50	50-60
On the basis of fishing practices & gear use					
	Practices		Harvest time		
Cooperative	Katal		Ist harvest	50	50
			II onwards	60	40
Individual based	Katal		Ist harvest	55	45
			II onwards	60-70	30-40



Conservation Measures in state law



Haryana (same in Punjab)

- Nets of all kinds not having at any portion a mesh bar measuring less than 4 cm. from knot to knot or 16 cm. all around.
- The licensee or his agent or nominees shall not catch or expose for sale or barter, fish of any of the following species below the length of 30 cm :-(i) Rohu (ii) Mrigal (iii) Catla (iv) Mahaseer (v) Silver Carp (vi) Grass Carp (vii) Common Carp

Maharashtra

- No person shall cause any net or other contrivance to be spread in the course of any flowing water (not being water in ponds, lakes or reservoirs) so as to block the passage of migrating fish.

Assam

- Complete ban of destructive practices and gears in fisheries (poisoning, dewatering and small meshed nets)
- leave sufficient fish stock in the water-body after completion of lease period.
- Keeping the water body free from aquatic weed to create congenial ecological condition





Conservation Measures in state law



Himachal Pradesh

- shall not catch or kill or sell any fish are less than the length shown against each a) Mahseer (*Tor putitora*) 50 cms. b) Trout (*Salmo trutta fario* or *Salmo gairdneri*) 40 cms. c) Common Carp (*Cyprinus carpio*) 30 cms. d) Theila (*Catla catla*) 45 cms. e) Rohu (*Labeo rohita*) 40 cms. f) Mori (*Cirrhina mrigala*) 30 cms. g) Silver carp (*Hypophthalmichthys molitrix*) 45 cms. h) Grass carp (*Ctenopharyngodon idellus*) 45 cms. i) Gugli or Saloh (*Schizothorax spp.*) 40 cms.
- The destruction or attempting to destroy fish by gun, spear, bow and arrow and like instruments or pollution of waters by trade affluent or by use of phai, jhatka or any other methods gear defined in the Rules is prohibited.
- No trout shall be caught by any person during the period from 1st November to last day of February each year. Not more than six trout shall be caught in a day by the license holder.

In reservoirs

- Gill Net of size 80 mts long & 5 mts deep with minimum mesh size of 5 cms from knot to knot.
- Close season 1st June to 31st July each year both days inclusive

Odisha

- Catching of IMC below 250mm is prohibited
- Gill Net below 100 mm size not allowed
- Catch of broodstock disallowed from 15 June to 31 August
- Industrial effluents and sewage disposal into reservoir not permitted



Conservation Measures in state law



Rajasthan

- No person shall use any dynamite or other explosive substances in any water with intent thereby to catch or destroy any of the fish that may be therein.
- No person shall put any poison, lime or noxious material into any water with intent thereby to catch or destroy any fish.
- The licensee shall not catch any fish less than 500 grams in weight of the species namely, Rohu, Catla, Mahaseer Silver Carp and Grass Carp, if caught, should be immediately liberated alive in the water
- The period from 16th June to 31st August in each year shall be closed season during which no fishing shall be allowed
- Purchase and sale of fish like Catla, mahaseer, Rohu, mrigal, Grass Carp and Silver Carp less than 500 grams in weight prohibited.
- The licensee has no right to take out anything else than the fish from the water leased to him e.g. turtles, crocodiles and others protected a aquatic animals.
- No fishing in Bathing ghats



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Policy implementation challenges (Assam & Bihar)



• *de-jure*

- Lease be given only to fisherman or fisherman Cooperative society
- Sharing arrangement between the lessee and other fishermen fishing on the resources shall be 50 : 50.
- Complete ban of destructive practices and gears in fisheries (poisoning, dewatering and small meshed nets)
- leave sufficient fish stock in the water-body after completion of lease period.
- Keeping the water body free from aquatic weed to create congenial ecological condition

• *de-facto*

- Though the lease given in the name of fishermen but management control in some of the wetlands under other person (Financer).
- In practice, the lessee and fishermen sharing arrangement is in the ratio of 60- 70 : 30-40.
- Destructive practices and gears still in use.
- Rarely in practice.
- Most of the water-bodies were seen choked with aquatic weeds.





Constraints & Challenges



- **Competition for lease of water bodies between fishermen and contractors (in Uttar Pradesh)**
- **Unequal power relation with other sectors in terms of socio- economy- political space**
- **Overfishing. Maintaining Sustainability is highly required**
- **Scattered distribution, diverse management regime, & weak governance**
- **Lack of credit support. Credit through Kisan credit cards has been initiated**
- **Weak or defunct Cooperative societies.**
- **Lack of alternative livelihood. Access to higher education and basic healthcare**
- **Declining share of fishers in consumer rupee**
- **Pollution, environmental degradation, climate change impacts and natural and human-induced disasters**





Challenges, and Choices for open water fisheries



Situation and trends	Challenges	Choices
Overexploitation of fisheries resources-catch per unit effort decreasing	How to restore this exploited ecosystem?	Short term versus long term use of fisheries
Increasing in the number of people employed in fishing	How to protect the interest of fishers and consumers?	Small scale versus large scale operation
Other use of waterbodies (other than fisheries)	how to maintain balance in profit and cost to society?	Fisheries versus ecotourism
Involvement of a large number of middle man	How to maintain Sustainable fisheries?	Community based versus individual based fisheries
Decreasing Area of Wetlands	How to reduce siltation and conversion of marginal area for other uses?	Protecting fishers interest.





Suggestions for Improvement



- **Maintaining sustainability of the fisheries resources** through rational exploitations and avoid over exploitation
- **Generating wealth and alternative livelihoods:** greater control over the systems and prescribe for strong regulatory regimes.
- **Recognize the role of Communities** communities and indigenous peoples to restore, conserve, protect and co-manage local aquatic and coastal ecosystems.
- **Consultation and participation:** ensuring active, free, effective, meaningful and informed participation of small-scale fishing communities in the whole decision-making process related to fishery resources affecting their livelihood options.
- **Conflicts resolution mechanisms:** As the fisheries suffering from multi dimensional conflicts, there is a need to develop an effective and credible conflict resolution mechanism.
- promote **investment in human resource development** such as health, education, literacy, and other skills development.
- **Secure Tenurial Rights**
- **Water regulations** for the benefit of the fisheries
- **Remunerative wage/price** to the fishers
- **Secure equal participation of women in decision-making processes** for policies directed towards small-scale fisheries
- **Need for integrated and holistic approaches**, including cross-sectoral collaboration, in order to address risk associated with climate change in inland fisheries.



Thanks Everyone

