



Access Rights to Inland Fisheries Resources: Legal and Institutional Perspective

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Presentation outline

- 1. Inland fisheries**
- 2. Access to resources**
- 3. Formation of ownership, control and transfer of fishing rights**
- 4. Lease value fixation**
- 5. Challenges and policy Choices**

Discussion points

- **Preference to Fishers/Fisherman community in access to resources**
- **Leasing policy in different states. Urgent need for policy convergence**
- **Challenges for Cooperative fisheries governance. Need for reforms in Primary Fisheries Cooperative societies**



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Features of Inland Fisheries



- **India second largest inland fish producer after China. Though in latest FAO Report India is the largest inland fish producer (FAO, 2022).**
- **Most of the fishers live in rural and remote areas, preferably in surroundings of water body.**
- **Providing Livelihood to million of fisherman household**
- **Multiple ownership**
- **The access rights to the resources depend on the state fisheries law.**
- **The multiple use / ownership/ stakeholder nature of the water body adversely affect their fishing efficiency and employment.**
- **The fishers are unorganized, even the fishers cooperative in India are extremely weak.**
- **Embedded interaction between the social and ecological systems**



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Stakeholder in Open Water Fisheries



- ➔ **Local user communities - People live in the vicinity and directly use the resources, i.e. the fishers, lessees**
- ➔ **local communities having an indirect interest in the management of the resource; i.e., local communities which rely on some function of the wetland, i.e. flood control, but no direct use the resources e.g. villagers in adjoining areas.**
- ➔ **Remote user communities i.e. share fishers and labourers.**
- ➔ **Commercial direct users i.e. lessees, middleman and fish traders**
- ➔ **Suppliers and marketers associated with fisheries**
- ➔ **Government agencies with responsibility for management of some aspect of fisheries resources, eg, Dept of fisheries, Panchayat, Dept of Forest**
- ➔ **NGOs, development assistance organizations and concerned individuals, and**
- ➔ **Research institutions**
- ➔ **End consumers of fish products.**





State Inland Fisheries Laws



- **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 Aquaculture Act, 2010**
- **Jammu and Kashmir Fisheries Act 2018**

Chandra, Ganesh and Das, B. K. (2019). Fisheries Legislation and its impact on inland fisheries in India. Paper presented in *National Workshop: Towards Developing an Implementation Plan for India's 2018 (Draft) National Policy on Inland Fisheries and Aquaculture (NIFAP) and the SSF Guidelines*. Organised by ICSF and held on 6-7 September 2019, Kolkata, india



Inland Fisheries Governance



- The **public trust doctrine** allows government to lease, grant, and sell public resources as long as not unduly harm public interests.
- Two types of existing institutional governance model
 - (1) **Revenue** based
 - (2) **Welfare** based
- **Fishing Rights: individuals, Groups, PFCS, & Communities.**
- **Factors determining fishing rights allocation:**
 - 1) **size of the reservoir,**
 - 2) **traditional and customary rights,**
 - 3) **physiographic dimensions,**
 - 4) **accessibility etc.**



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Access and Allocation



- **Access:** the right to enter a defined physical property
- **Withdrawal:** the right to obtain the “product” of a resource (e.g. catch fish etc.)

In regard to common pool resources, collective-choice property rights include management, exclusion and alienation.

- **Management:** the right to regulate internal use patterns and transform the resources by making improvement.
- **Exclusion:** the right to determine who will have access right, and how that right may be transferred
- **Alienation:** the right to sell or lease either or both of the above collective choice rights.

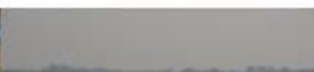




Access to resources



- Access to fishers is governed by leasing policy and property rights regime applicable in different states.
- Leasing or tenurial right is the **transfer of use rights by the owner (Govt/lesser) to the lessee for a specified duration or tenure** on the payment of specified amount which is determined under the auction process or through negotiation or as per the law established.
- Fishing lease means assigning rights of property use to individuals, groups, fisherman cooperative, or communities.
- The lease period in many states are in 5-10 years range.
- Bid price for lease depends on the Fish Catch, Effective Water Spread areas etc.



Chandra, Ganesh. 2014. Management Regime and its Impact on the Wetland Fisheries Management in Assam. *Journal of the Inland Fisheries Societies of India* 46(1): 62-68



Management Regimes



Individual/Private Management: Management of fisheries *de facto* by lessee subject to reasonable restrictions

Cooperative Management: Management of fisheries operations is done by the members of the cooperative society.

Community based fisheries management: Management by community with facilitation by fisheries department

Open Access: no control of access.

- Access of these waterbodies is *de facto* on local rights i.e. the fisherman from the adjoining locality or same community or tribes etc.



FORMATION OF THE OWNERSHIP, CONTROL AND TRANSFER OF FISHING RIGHTS IN STATES



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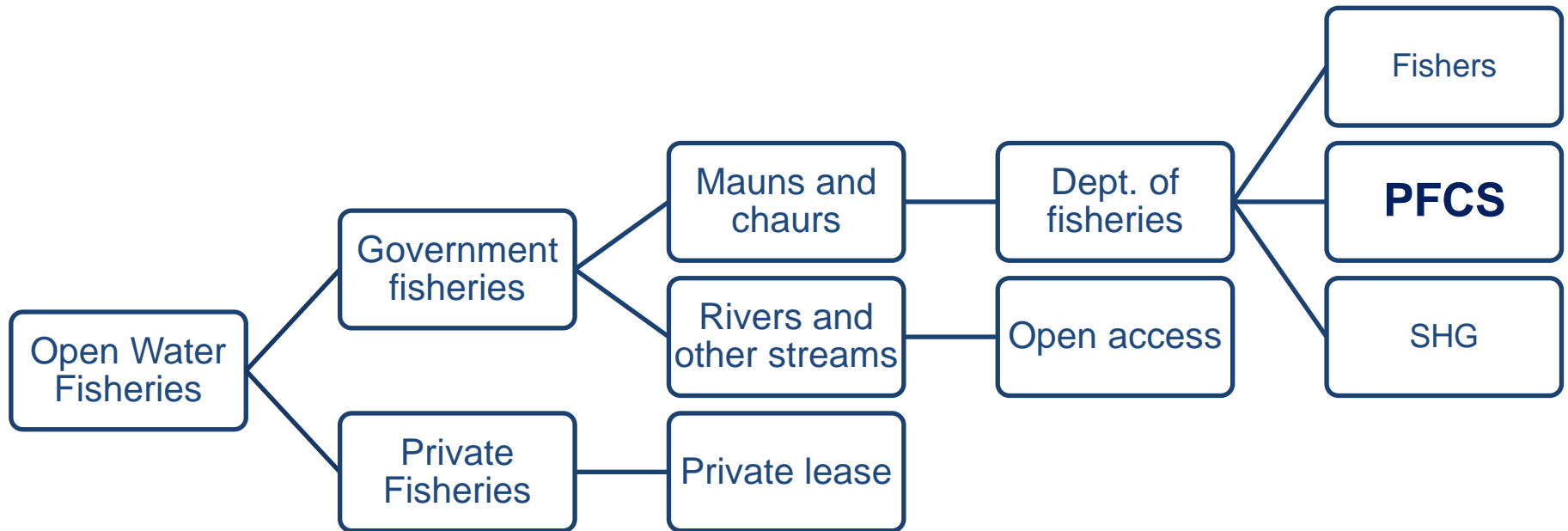
Formation of the ownership, control and transfer of fishing rights in Assam



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 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 of 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



Formation & Transfer of Fishing Rights in Bihar



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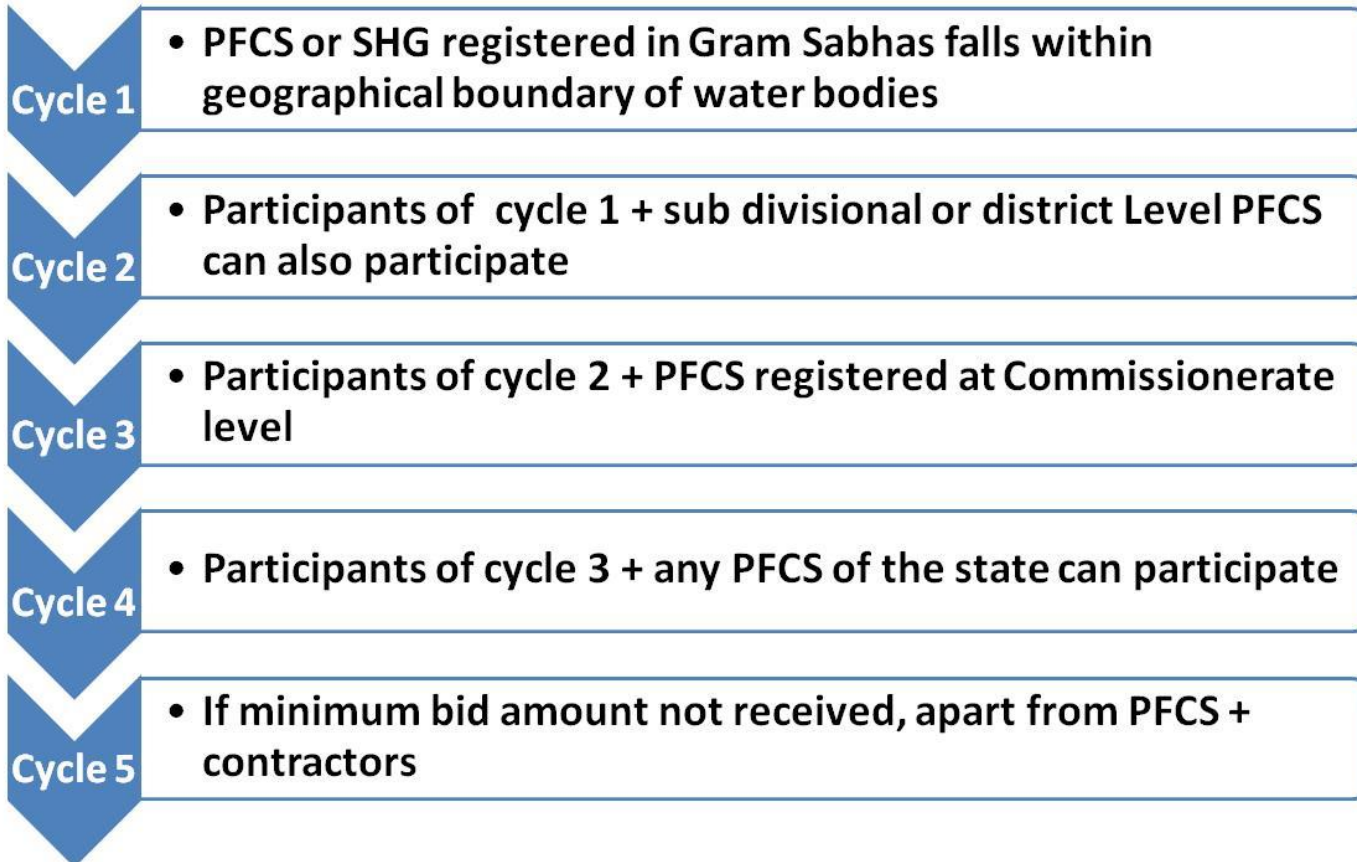
Fishing Right allocation in Uttar Pradesh



Class 1 & 2

- Both Contractors and Cooperative can bid for fishing rights
- Fishing rights allocation: highest bidder.

Class 3 & 4





Formation and transfer of fishing rights in Chhattishgarh



Water area	Ownership	Fishing right access
0-200 ha ponds and tanks	Gram Panchayat, Block Panchayat and Zila Panchayat	Recognized fishermen Cooperative societies
200-1000 ha reservoirs (Small)	Department of Fisheries	Recognized fishermen Cooperative societies,
1000-5000 ha Medium reservoirs	Chhattisgarh Fisheries Cooperative Federation	Member Cooperative Societies , fishermen group, Individual fisherman, Persons displaced on account of submergence caused by irrigation, SHG (7 Years)
5000 ha and above Large reservoirs	Department of Fisheries	Recognized fishermen Cooperative societies (10 Years), Contractors



Formation and transfer of fishing rights in Gujarat



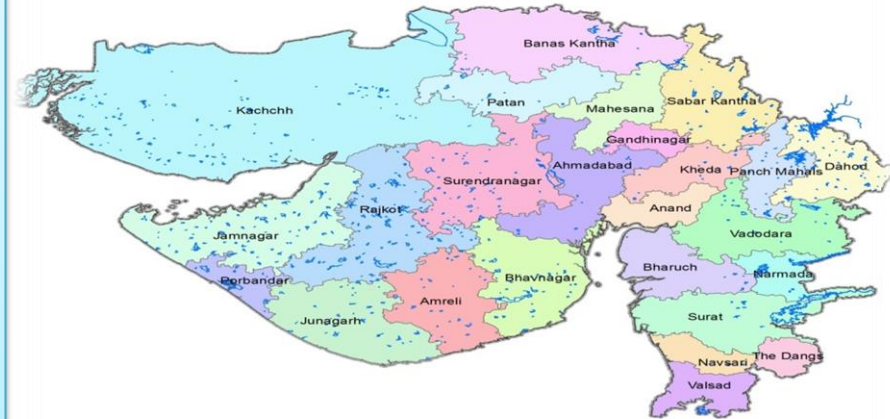
Non Tribal area:

- Reservoir up to 20 ha : **FFDA beneficiaries.**
- Reservoir up to 200 ha in Saurashtra and North Gujarat : **FFDA**
- Reservoirs above 200 ha : **Highest bidder**

Tribal Area:

- Up to 20 ha: **individual tribal fishermen**
- 21-1000 ha: **Tribal Cooperative society**
- Reservoirs above 1000 ha : **federation of tribal co-operatives/ local tribal co-operatives.**

Duration of Lease : 5 years initially, extendable up to 10 years.





FORMATION OF THE OWNERSHIP, CONTROL AND TRANSFER OF FISHING RIGHTS IN TANKS OF ANDHRA PRADESH



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Formation of the ownership, control and transfer of fishing rights in Tanks of Andhra Pradesh



Controlling agencies	Purpose	System of transfer or license	Term	Criteria for selection
Panchayat dept (Gram Pradhan)	Collection of revenue: Utilizations by fishing resources, Betterment of population	<ol style="list-style-type: none">1. FCS2. auction system price fixed on the basis of last five years	3 years	Fisherman Cooperative if not then highest bidder
Dept. of Fisheries	Collection of revenue; Utilization by fishing populations, Fish production	<ol style="list-style-type: none">1. FCS2. Local bodies3. Auction system	3 Years	



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Reforms in Leasing System in Tanks of Andhra Pradesh

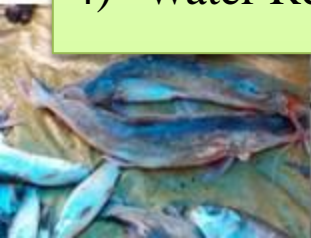


G.O. Rt No. 217 AH DD & Fisheries (Fish) Department Dt.18.08.2021

- Auctioning of fishery wealth in public water bodies which are 100 Ha and above.
- Pilot going in 27 identified tanks of Nellore district encompassing 25,380 hectares covering 27 FCS with 6,614 members depending on these water bodies for their livelihood.
- lease is for three years and the bid price Rs. 25000 per annum per ha water area. With increase by 10% in 2nd and third year.
- 25% of lease amount should be paid at the time of signing of contract and remaining 75% within 90 days of signing.

Sharing of lease amount

- 1) Members of PFCS: 30% of lease amount Or Rs. 15000 per members which ever is less per annum
- 2) Gram Panchayat: 10%
- 3) Fisheries Department (APCOF): 20%
- 4) Water Resources Department: 40%





Divergence and Convergence in institutional arrangement



State	Ownership of waterbodies	System of Transfer and License	Lease tem	Governance model	Managemen t System	Fishing Right and Equity
Assam	Department of Revenue, Fisheries, AFDC, Panchayat, Environment	Open tender system, License to highest bidder,	7	Revenue model	Individual and Cooperative	Fishers oriented
Bihar	Department of Fisheries	Licence to PFCS	5	Welfare model	Cooperative	Fishers oriented
Uttar Pradesh	Irrigation, Fisheries	Open Tender System, License to higher bidder, Fishers and Contractors	3-5 years	Revenue model	Private and Coopeartive	Favouring private parties over fishers

Uttam Kumar Sarkar, P. Mishal, Simanku Borah, Gunjan Karnatak, **Chandra, Ganesh.**, Suman Kumari, D. K. Meena, Dipesh Debnath, Sona Yengkokpam, Pronob Das, Piyashi DebRoy, Anil K. Yadav, Md. Aftabuddin, Pranab Gogoi, Arun Pandit, Biren K. Bhattacharjya, Tasso Tayung, L. Lianthuamluaia & B. K. Das (2020): Status, Potential, Prospects, and Issues of Floodplain Wetland Fisheries in India: Synthesis and Review for Sustainable Management, *Reviews in Fisheries Science & Aquaculture*, DOI: 10.1080/23308249.2020.1779650



Preference to Cooperative Societies



- 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, Kerala, Chhattisgarh, Odisha.
- Preference to Cooperative Societies over other fishers/ contractors/ private parties in bidding of license. Lease awarded to cooperatives if they bid within the range of highest bid

Assam: 7.5%

Haryana: 10%

Rajasthan: 5%



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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



Base price of Bid rate 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





Challenges Concern and Choices for Fisheries



Situation and trends	Challenges	Concerns	Choices
Overexploitation of fisheries resources- catch per unit effort decreasing	Exploited ecosystem- no consensus of restoring it	Managing the ecosystem health	Short term versus long term use of fisheries
Increasing in the number of people employed in fishing	Exploiting market while protecting interest of fishers and consumers	Increasing share of fishers in consumer rupee	Small scale versus large scale operation
Other use of wetlands (other than fisheries)	Balancing profit and cost to society	Social justice through providing more option to fishers	Fisheries versus ecotourism
Involvement of a large number of middle man	Sustainable fisheries		Community based versus individual based fisheries
Decreasing Area of open waters	Siltation and conversion of marginal area for other uses	Livelihood security of the fisher community	Protecting fishers' interest.



Shortcoming & 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, time to chose maintaining sustainability
- ❖ Scattered distribution, diverse management regime, & weak governance
- ❖ Lack of credit support.
- ❖ Weak or defunct Cooperative societies.
- ❖ Lack of alternative livelihood. Access to higher education and basic healthcare
- ❖ Declining share of fishers in consumer rupee





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.
- **Conflicts resolution mechanisms:** As the fisheries suffering from multi dimensional conflicts, there is a need to develop an effective and credible conflict resolution mechanism.
- **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



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