Laws and policies for protection of waterbodies in India - Need for legal and institutional review

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Water wealth

Lakes/wetlands are vital sponges. They prevent flood and recharge groundwater

Every city gave its land for rain.

Today.....

These holes in the ground are either lucrative real estate for builders, the last resort for slum dwellers, or garbage dumps.

Legal battles to save the lakes: Common features

- The cases have been filed in the face of water shortage and government apathy.
- They are responses to encroachment or government-authorised changes in the use of the land of the lakes or their catchment areas.
- Several petitioners faced resistance, even threats, from land and real estate developers with political connections.
- Although water policies talk about protection of water-bodies, there is no clear framework to ensure that lakes are not protected.
- There are not clear laws to protect waterbodies and their catchment.
- Corruption charges on agencies responsible for protection.
- Multiple agencies without clear mandate in terms of role and responsibilities

Churning still water: Few questions

I. Who owns the waterbody?

II. How many waterbodies are there?

III. Which waterbodies should be protected?

IV. What is the no-construction zone around the waterbody?

V. Will the catchment and channels feeding the waterbodies be protected?

VI. Who will maintain the waterbody?

Policies to save the waterbodies in India

National water policy formulated in 1997 and revised in 2002: **Talks only about revival of traditional systems**

Ministry of Environment and Forests has developed the National Wetland Conservation Programme in 1983 for conservation of lakes and other waterbodies

Since most of the lakes are in urban areas and face more threats of pollution and encroachment, the ministry developed a separate programme in 2001 called National Lake Conservation Plan to conserve the urban lakes. Few states developed State Level Conservation Plan

Current update: New integrated programme - National Plan for Conservation of Aquatic Eco-systems by merging National Lake Conservation Plan and the National Wetlands Conservation Programme

Policies to save the waterbodies in India

- The National Conservation Strategy and Policy Statement on Environment and Development (1992)
- National Project for Repair, Renovation & Restoration (RRR) of waterbodies directly linked to agriculture (2005)
- Regional plan-2021, National Capital Region (NCR) (2005)
- National Water Mission under National Action Plan on Climate Change (2009)

The Comptroller and Auditor General's (CAG) report 2011 says that the Ministry of Environment and Forest has so far not undertaken any inventory of lakes

Few existing laws and policies to save the lakes

Wetlands (Management and Conservation) Rules, 2010 was issued by Ministry of Environment and Forests (MOEF), for conservation and management of wetlands.

Guwahati Water Bodies (Preservation and Conservation) Bill 2008
The objective is to preserve wetlands and to re-aquire lands in the peripery of the waterbody for its protection.

East Kolkata Wetland Conservation and Management bill, 2006.
This bill includes provision for penalities – Rs 1 lakh for encroachment.

Andhra government's 'Water, Land, Trees Act', 2002.
The act empowers state agencies to take steps to protect water bodies and to prevent conversion.

Missing points in Wetland Rules 2010

- The involvement of the stakeholders and other citizens near the waterbodies has been ignored.
- No clarification on the traditional rights
- The way by which the stakeholders would approach the wetland authority in case the state fails to identify a threatened waterbody is not clear.
- The rule does not mention about a well defined penalty for the people who do not abide by these rules.
- The new rule prohibits any entry of untreated sewage into the wetlands — but it is not mentioned how wetlands like East Kolkata wetlands which helps in treating the waste water —will be categorised.
- No mention on capacity building and preparing inventory or mapping in general

Case studies

Real estate on water: Case on reclamation of lake bed

Charkop lake in Mumbai, Maharashtra: From 2005 onwards, the builders started reclaiming the lake bed.

2009

2011

United Association for Social, Educational and Public Welfare, Mumbai based NGO filed PIL in 2009.

Current update: The High Court of Bombay gave a verdict which could not stop the builders

Lake assault: Case on encroachment of lake bank

Ousteri lake in Puducherry: Illegal construction started on the banks of the lake from 2006 onwards.

Ousteri Protection Coordination Committee (OPCC) filed a PIL (2006) to stop the construction of medical college on the banks of the lake.

Sewage from the college has been directly connected to the waterbody

Current update: In spite of injunction from the High Court, the construction continued.

Concrete drama: Case on encroachment of Eksar lake

Eksar lake, Mumbai, Maharashtra: Local MLA started filling up the lake from 2008 onwards

In 2009, a PIL was filed. In 2011, an interim order was passed by the High Court to stop any further construction.

Current update: The lake was already concretised.

Vanishing lake

Badkhal lake, Faridabad, Haryana: Mining activity in the catchment area has made the lake completely dry.

M C Mehta in 1995, filed a Public Interest Litigation (PIL) against mining and stone crushing in the Aravallis citing the drying up of these water bodies in the area.

Current update: In response to the PIL, Supreme Court of India banned mining in the nearby Aravalli hills

Watered down

Khurpatal, Uttarakhand:Construction of buildings in the catchment of the lake required mindless extraction of groundwater from the surrounding areas of the lake. The springs downhill remains dry almost through out the year. Livelihood of the farmers has been affected.

2009

2011

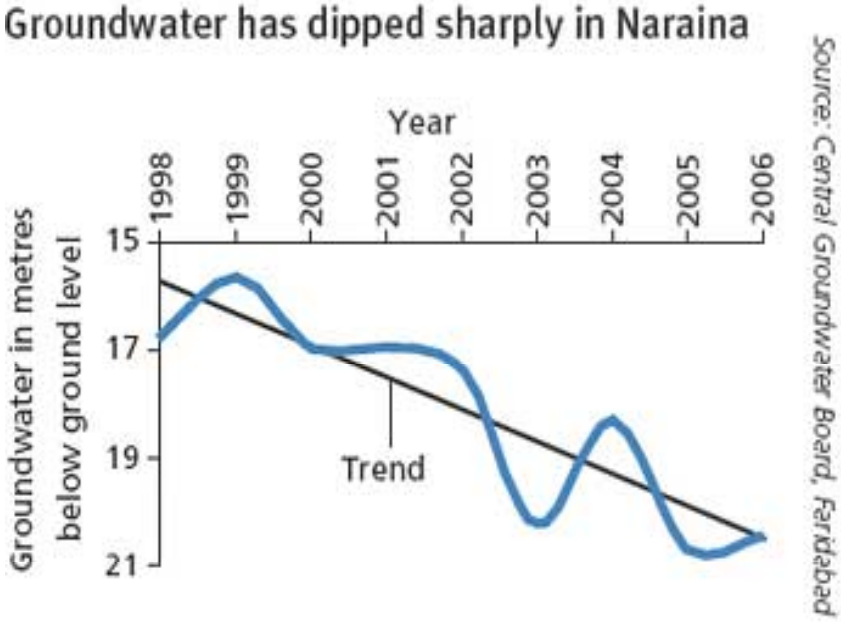
Dr. Ajay S. Rawat, Professor of History in Kumaon University filed a PIL against the illegal boring of groundwater in the lake area,

Boring activity near Khurpatal

Current status: High Court of Uttarakhand banned any borewell extraction

Waste receptacle

Mayapuri lake, Delhi: Government is planning development work on the bank of the lake. Justifies that it is an artificial pit



In 2000, Delhi based organisation TAPAS filed a PIL to save the Delhi waterbodies

Current update: The court is yet to decide the fate of the lake

The broken mirror

Deepor beel, Guwahati, Assam: The wetland shrunk by more than 15 % in the last ten years. Illegal construction, dumping of garbage, soil quarring are the direct threats to the lake.

In 2006, Deepor beel Unnayan Samiti filed a PIL against the encroachment of the lake. In the same year, the residents near the lake filed another PIL against solid waste dumping in the lake

Polluted to the brim

Current update: Forest department came forward to preserve the lake

Where do we dump our waste?

Powai lake, Mumbai, Maharshtra: Solid waste dumping, direct entry of sewage from the surrounding, growth of water hyacinth are the major threats

A petition was filed in 2000 by local MLA to save the lake

Current update: The municipal corporation only concentrating on the beautification of the lake in the name of revival

Dal lake, Kashmir, Jammu and Kashmir: Pollution and encroachment of the lake are the threats

In 2000, Syed Mujtaba Hussain, a human rights lawyer, and Green Kashmir, a Srinagar based non governmental organisation filed a PIL to save the lake.

Current update: A high level committee has been appointed by the High Court to look after the lake. Lakes Waterways Development Authority, Jammu and Kashmir is taking initiative to clean the lake

Diminishing returns

Kanyakumari tanks: Growth of weeds due to application of manure for lotus cultivation

In 2007, few local environmentalists filed a case to protect the tanks

Current update: 2009, lotus cultivation for commercial purpose has been banned in Kanya Kumari by the court.

Fishy facts

Chilika lake, Orissa: Fights between fishermen and non fishermen communities over fishing rights. Chilika Banchao Anadolan (The Save Chilika Movement) began in 1991 against the TATA's project and other illegal prawn cultivators.

In 2002, Chilika (Regulation) Bill was passed giving only 30 per cent fishing rights to non-fisher folk.

Current update: Fishermen protested against the anti-fisher folk 'Black Chilika Bill

Bhimtal lake, Uttarakhand revived after the High Court order

In 2001, Fredrick Smetacek (Jr), Chief co-ordinator of Society of Appeal for Vanishing Environments (SAVE), a Bhimtal based non governmental organisation, filed a PIL in the High Court of Uttaranchal to save the lakes of Naintal area

Healing touch: Naintal lake revived after the High Court judgement

In 1993, Dr. Ajay S. Rawat, Professor of History in Kumaon University filed a PIL in the Supreme Court of India to save the Nainital lake

Kolleru lake in Andhra Pradesh: Restored after directions from the court in 2006.

In 1998, Dr. T. Patanjali Sastry, President, Environment Centre, Danavaipeta,Rajahmundry filed a PIL in the High Court to protect the ecosystem of the Kolleru lake

Points for the protection of waterbodies

- Ownership of the waterebodies
- List mapping and earmarkings of the waterbodies on ground in the city
- Map and work on ground the buffer zone around the waterbodies
- Map and work on ground the catchment and channels feeding the waterbodies and precautions to be taken.
- Lack of information sharing about the legal framework for the protection of the waterbodies for key stakeholders.

Churning still water

The protection of waterbodies and their catchment is only half the story. The real challenge lies in ensuring that these bodies are supplied unpolluted rainwater, that is, they are recharged.

Thank you