



Ashoka Trust for Research in Ecology and the Environment

Royal Enclave,
Srirampura, Jakkur Post,
Bangalore - 560 064, India.

Ph:91-80-23635555
Fax: 91-80-23530070
email: priyan@atree.org

REGIONAL OFFICES

Darjeeling: (Regional)
ATREE- Eastern Himalayas
E2, 2nd Floor
Golden Heights,
Gandhi Road
Darjeeling 734101
Tel: +91-354-2259 297

New Delhi: (Liaison and
Development)
2nd Floor,
1, K Block Commercial
Complex,
Birbal Road,
Jangpura Extension,
New Delhi 110014
Telefax: +91-11-2432 3133

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Priyadarsanan Dharma Rajan, Ph.D.

Senior Fellow

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To,
The Secretary,
Ministry of Environment and Forests
New Delhi

In the wake of global climate change scenario and imminent drinking water shortage it is high time that we should give attention to the conservation of our wetlands. Wetlands are also finally being recognised as distinct eco-systems with significant services to offer. So far no legislation of land and forest in India legally defines wetlands and there were no special enactments for their conservation. The National Environment Policy, 2006, stressed the importance of wetlands as ground water resources that need legally enforceable regulations. The draft rules' potential to integrate and coordinate various sectoral activities that usually operate in uncoordinated manner, in a given ecosystem such as wetlands is laudable.

The Wetland Conservation Team of Ashoka Trust for Research in Ecology and the Environment (ATREE) has done a detailed analysis of the draft Wetlands (Conservation and Management) Rules,2009. We wish to point out certain shortcomings in the draft Regulatory Framework for Wetlands Conservation and expect those will be addressed before this legislation being promulgated.

Pl. See the suggestions in the attached document.

Thanks
Yours faithfully

Priyadarsanan

Ministry of Environment and Forests (MoEF)
Wetlands (Conservation and Management) Rules, 2009

Comments submitted by:

Wetland Conservation Program,
Ashoka Trust for Research in Ecology and the Environment (ATREE),
Centre of Excellence in Conservation Science (MoEF),
Royal Enclave, Srirampura, Jakkur PO, Bangalore - 560064

E-mail for correspondence: priyan@atree.org

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The legislations often are interpreted as the policies of the state towards an issue. So the legislations should be drafted based on strong visions and policies, if possible after formulating a national strategy. Unfortunately most of our recent legislations are made without a comprehensive vision or policy backup. The Wetlands (Conservation and Management) Rules, 2009 is not an exemption.

The draft Wetlands (Conservation and Management) Rules, 2009 is circulated as a follow up of the draft Regulatory framework for wetland conservation released in 2008. But, the proposed rules are not significantly different or comprehensive compared to its previous version and also unfortunately continue to propose the unjustifiable State control and interventions over people's livelihoods.

We wish to point out certain shortcomings in the draft Wetlands (Conservation and Management) Rules, 2009 and expect those will be addressed before this notification being promulgated.

Although the Wetlands (Conservation and Management) Rules, 2009 mention that these rules are made for 'conservation and management of wetlands', it does not make any constructive suggestions or recommendations for the conservation our wetlands demand. Instead it brings all wetlands into complete official control by installing Central, state and District level wetland regulatory authorities, where the majority of the members are senior government officials.

A remarkable drop in Wetlands (Conservation and Management) Rules, 2009, when comparing it with Wetland Regulatory Framework -2008 is that it allows to continue all non-wetland use of wetlands such as dredging, reclamation etc (Sect. 2 Restrictions on Activities within the Wetlands) by mentioning such activities shall be prohibited (Sec 2(1)) where the Wetland Regulatory Framework -2008 has clearly listed such activities as Prohibited Activities (sect 4. (Restriction on Activities within Wetlands)).

The emerging ecosystem conservation and management practices worldwide, recognize the importance of protecting dependent livelihoods and installing democratic structures for ecosystem management. Even within the country, acts such as forest conservation is moving in that direction by promulgation of Forest Rights Act. Unfortunately the proposed rules not only reject such latest understanding but also try to move in an opposite direction.

Millions of poor people in the country are traditionally dependent on wetlands for their primary livelihood. Wetland services play a significant role in the well-being of the dependents and larger regional economies. Nowhere the draft Wetlands (Conservation and Management) Rules, 2009 mentions the importance of wetlands in livelihoods of poor people and the effect of degradation of wetland ecosystem services on poverty and vulnerability. The rules does not recognize the traditional rights over the wetlands for livelihoods even as it seeks to regulate such activities (sect 2 (2)). Such regulation can in effect become prohibitive for livelihood activities. The draft Wetlands (Conservation and Management) Rules, 2009 centralizes powers to a Central Wetlands Regulatory Authority, for the Category 'A' wetlands the State Wetland Regulatory Authority for the category B wetlands. Rather than such centralized institutions, a decentralized system of empowered institutions would be more effective and efficient.

The Sixth Conference of Parties of Ramsar Convention has called upon the Contracting Parties *“to make specific efforts to encourage active and informed participation of local and indigenous people at Ramsar listed sites and other wetlands and their catchments, and their direct involvement, through appropriate mechanisms, in wetland management”* (Recommendation 6.3 of Ramsar COP6 1996). No such efforts are made in this Wetlands (Conservation and Management) Rules, 2009 to ensure the involvement of the communities and local stakeholders groups in the management of the wetlands. The public participation in the Wetland conservation is limited by including one NGO membership each in Central and State Wetlands Regulatory Authority and 2 village Panchayat Members and two NGO representatives in the District Wetlands Regulatory Authority. There is NO representation for the other elected representatives (Members of Parliaments, Members of Legislative Assemblies, district Panchayats etc) or stakeholder groups, in any of the regulatory authorities or in the Central, state or District Wetland appraisal committees.

Being a signatory to the Ramsar convention, India is committed to have a National Wetland Policy. It would have been ideal if the wetland regulatory framework was drafted based on a National Wetland Policy. The purpose of legislation should not be just regulating the activities and controlling the access to the citizens. Instead it should include visions for scientific management and conservation of wetlands with the active involvement and local people recognising their traditional rights and respecting their knowledge and experience.

The document also have to improve the language to provide more clarity in many sections and also should rectify the errors in section numbering.

Section wise comments

Sect.. 2(1) Restrictions for activities within the wetlands

This section lists several activities which “shall be” prohibited. This effectively allows continuing all the activities listed to continue till a separate notification to ban such activities come into effect. We propose to list these activities as prohibited without any ambiguity as in the previous Regulatory Framework for Wetlands Conservation-2008.

Sect. 2.1.(vii) Construction-

The fifty meter stipulation is impractical in many wetlands, especially for those in densely populated areas where houses are built literally on the embankments. So individual housing constructions should be excluded from the purview of the Act and the size of the construction may be delimited. However the fifty meter stipulation can be useful in regulating future constructions for commercial purposes.

Sect. 2 (2) Activities which need prior approval

This section demands a prior approval for several activities even when they are within the acceptable limits of resource use. The most important among them is section 2.2.(ii) which mention about the harvesting of living resources and section 2.2.(ix) fisheries within the carrying capacity of the wetland;

Regulating primary livelihood activities of traditional communities will have adverse impacts and will result in the escalation of poverty and vulnerability. These activities should be excluded from the regulation. Any unhealthy practices followed by these communities could be regulated / even prohibited based with the existing fishery acts.

Sect. 3. Categorization of Wetlands

Irrespective of the size, wetlands that perform critical ecological / biodiversity functions (e.g.: harbouring critical population of endangered species) need to be included under category 'A'.

Sect. 4, 5 and 6. Constitution of various committees

The institutions for managing the natural resources in our country are under-performing in many instances because of the lack of democratic nature. The so called "public consultation" is often ineffective to bring local people's view points and concerns into decision making. The proposed structure of various committees include mainly officials and subject experts. We propose to include the democratically elected members of various parliament/ assembly/panchayat constituencies in various committees.

It would be more appropriate if the government could promulgate an ACT for the conservation of wetlands the lifeline of the country, instead of bringing out notifications which has limitations. ACT is an act of Parliament whcih provides opportunities for wide discussion inside and outside. We have acts for the conservation of Forests, Biodiversity etc. Why can not there be an act for the conservation of wetlands which directly and indirectly play several ecosystem functions and provide livelihood support for the millions where majority are marginalised.

ATREE's Wetland Conservation team involved in this review:

Dr. Priyadarsanan Dharma Rajan
Dr. Siddhartha Krishnan
M.C. Kiran