Draft on Framework Legislation for Conservation and Protection of Wetlands in South Asia

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To Start With...

- Statement of Objects and Reasons
  - Aim-Framework Legislation for Debate and Follow up as per country specifications
  - Focusing on: Ecological Balance, threats to wetlands, need for sustainable use, respect for internal agreements, ensuring parity in laws

- Preamble
  - Reflection of Objects and the way to do it
    - Decentralization of management
    - Use of Technological Advancement
Definitions

• Definition of Key terms with an understanding of basic scientific terms
  • Authority
  • Wetlands
  • Critical Wetlands
  • Ecologically Sensitive Areas
  • Sustainable Use
  • Wise Use
Categorization of Wetlands

• Need for categorization
• Parameters for identification of wetland
  • Geo-hydrological indicators-glacial/desert/palustrine....
  • Area-
    • Size-circumference and volume
  • Location-Urban/Non-Urban
  • Nature-Seasonal/Perennial and Critical/Non Critical
Mapping, Data Bank and Notification of Wetlands

• Mapping Process
  • Use of Technology
  • Involvement of Scientific Institution
  • Record of Customary Rights and Management Practices at the time of mapping
  • Involvement of Public and Civil Society in mapping process
  • Mapping of wetlands missed out in the first go - right of public-use of age old maps and historic right
  • How do we include the traditional boundaries now - can we reclaim the lost wetland or its land for restoration
  • Fencing at the time of mapping

• Recording in the Data Bank
  • Done at State Level
  • Time Frame - 3 months
  • Open to Public Viewing
  • Inclusion of FTL and maximum water spread of the wetlands in the record

• Notification
  • State Notification
  • Rights of people having any right/interest
Authorities

- Constitution of authorities at three levels
  - Central, State/Province and District
- Central Authority
  - Authority for Management and Conservation and not Development
  - Inclusion of concerned line departments, civil society and local representation
  - Functions: Critical, Inter State, Transboundary, Enforcement, Coordination
- State Board
  - Chairperson—not a bureaucrat
  - Inclusion of Line Departments to ensure coordination in wetland management
  - Experts-for identification
  - Functions: Identification, notification, management, conservation, dispute resolution and coordination
- District Committee
  - Committee and not an authority
  - Members—representation of line departments, involvement of Panchayat/Ward Agencies, Existing Lake/Water User Agencies
  - Right not just to assist but also to prohibit or restrict
- Wetland Managers
  - Monitoring of wetlands
  - Extension Staff of Line Ministries
Regulation and Management of Wetlands

- Division of various activities:
  - Prohibited activities
    - Reclamation
    - Industries
    - Waste Disposal
    - Construction
    - Leasing to Private Companies (to be added)
  - Permissible activities through a due process

- Permitted activities
  - Special position of trans-boundary and seasonal wetlands in law
  - Recognition of customary rights and management practices along with the corresponding duties arising from it
Conservation and Restoration of Wetlands

- Creation of ESA’s
  - 5 km boundary
  - Deemed to be a wetland and managed as such
- Participation by local communities
  - Left the process for doing so open
- Creation of a wetland conservation and management fund
  - Used for conservation and restoration activities
- Incentive-based mechanisms
  - such as tax benefits
  - Rights to local communities
  - Not for private companies!
  - Restoration through giving back reclaimed wetland to the public
Offences and Penalties

- Offence to Compounded on the basis of the “Value of Damage to the Wetland” (How do you assess the damage?)
- Power to compound offences with the State// Provincial Govt.
- Imprisonment upto three years and fine upto 100,000
- Offences to be cognizable and non-bailable
Miscellaneous

- Power to make rules and regulations
- Act not in derogation of other laws but still has to be upheld
On a Final Note....

- This is work in progress

- Suggestions for Improvement are not only welcome but necessary to take this unique process forward!

THANK YOU!