How Kerala is Destroying its Wetlands

Amendment to Kerala Conservation of Paddy Land & Wetland Act 2008

CHITRA K P

Chitra K P (chithukp@gmail.com) teaches at the Department of Social Work, Sree Sankaracharyya University of Sanskrit, Kaladi, Ernakulam, Kerala.

The amendment to the Kerala Conservation of Paddy Land and Wetland Act 2008 is one in a series of environmentally detrimental decisions that the Kerala government has taken. The state urgently needs to factor in ecological rationale in decision-making and conserve paddy fields and wetlands for the long term health of the state.

Reckless reclamation or conversion of paddy fields and wetlands has become a regular activity in Kerala. Over the last few decades Kerala has lost hectares of wetlands and paddy fields legally in the name of industry, infrastructure development and housing. Illegally, land has been lost to *benami* (property registered in the name of a person other than one who has financed it) transactions in the burgeoning land market. The consequent impact on water security, food security and ecological balance of the region is being neglected by the state-market nexus in the quest for unbridled economic growth and development. Market forces often manipulate and modify existent legal framework for conservation initiatives to normalise conversion and reclamation of wetlands and paddy fields. The effort here is to delineate the sabotage attempts on the wetland conservation laws of the state.


The original act was passed with the objective of restricting reclamation or conversion of paddy fields and wetlands and to conserve them to promote agriculture sector and ecological security. But the amendment to the act gives power to the district collector to regularise the unauthorised conversion or reclamation of paddy land made before the commencement of the 2008 Act (12 August 2008) by recovering a fee from the concerned person. The amendment is valid over any provisions contained in the 2008 act, any other act, rules or orders, judgment, decree or order of any court, tribunal or other authority of the state. The revision is made through the Finance Act in the name of revenue generation for the state to validate and legalise reclamation of paddy fields/wetlands, violating the conservation objective.
**Discrepancies in Amendment**

The Kerala Conservation of Paddy land and Wetland (Regularisation of Unauthorised reclamation) rules 2015 based on the new act defines paddy field as those recorded as wetland in the Basic Tax Register and which have been reclaimed before 2008. This is against the definition accorded to paddy fields in the 2008 act and literally acts against the idea of conservation. As per the rules anyone who is engaged in unauthorised reclamation prior to 12 August 2008 can submit an application with a nominal fee of Rs 500 (along with land ownership documents, documentary evidence by any concerned authority and photographs signed by the applicant stating that the land has been reclaimed without authorisation prior to the prescribed date) to the collector for the regularisation of such reclamation. The rules also state that the verification of the application would be done based on the status of draft/data bank details on 12 August 2008. This is problematic since the consolidation of even a draft data bank was done only in 2012.

The new amendment justifies the reclamation of lakhs of acres of paddy fields/wetlands in Kerala before the formulation of the Wetland Conservation Act in 2008. The Conservation Act has not been enforced properly either. In the absence of a proper data bank of wetlands and paddy fields in the state, there is a high probability that the wetlands and paddy fields reclaimed after 2008 also will get legalised.

Further the fee for regularisation is set at the rate of 25% of the fair value of the land per acre[i]. The market value of wetland itself is very low in comparison to drylands, since the ecological value of paddy fields and wetlands is not considered in market based valuation. Also the requirement of land filling and leveling lowers the land price in the case of wetlands. Since the fair value of the wetland itself is low, 25% of that amount per acre would be negligible and is incomparable with the high profit generated by the reclaimed wetland (now dryland).

Institutional failure of the revenue department in the formulation of an authentic databank of paddy fields and wetlands is being capitalised here to serve private interests. Thus the motive of the new amendment needs critical analysis in terms of the intent, the provisions set and the transparency of procedures. In the present state the new amendment will only serve to meet the interest of benami land holders and those engaged in real estate ventures resulting in largescale misuse and corruption.

**Sabotaging Conservation Laws**

The state’s attempt to sabotage the conservation of paddy fields and other wetlands is not new in Kerala polity. In 1997 the agriculture department issued a directive[ii] to all the district collectors not to sanction any application under the Kerala Land Utilisation (KLU) order[iii] for conversion of paddy land for other uses, except with the prior approval of the concerned government body. Considering the delay in the processing of applications as well as upholding the “inappropriateness” of governmental intervention in the quasi-judicial
functions of the district collectors under the KLU statute through an administrative
measure, the directive was withdrawn in 2002 through another order[iv] by the agriculture
department. This gave back the decision-making power to the collectors regarding the
applications for conversions, with a loose mention that large scale reclamation of wetlands
and paddy fields should be "discouraged."

The withdrawal of the agriculture department in decision-making on land use should be
read together with the introduction of the Land Use Bill and Kerala Industrial (Prohibition of
Obstructive Practices) Bill in 2002 which opened up more space for the conversion of
agricultural land. In 2012 these two bills were reintroduced by the Committee for Policy
Initiatives and Legal Changes, formed with the intention of formulating policy modifications
in the context of "Emerging Kerala," a summit organised to project the state as an
investment destination. Both the bills attempted to sabotage the protective measures for
paddy and other agricultural crops.

The guidelines mentioned in the Land Use Bill spoke only about the preservation of double
crop paddy fields and remained silent about single crop paddy fields and other agricultural
lands. This was in contradiction to the KCPWA 2008 which specified that even single crop
paddy lands or cultivable fallow lands should be protected against reclamation. Unlike the
land utilisation order which focused on the preservation of agricultural lands as such for
food security reasons the new Land Use Bill sought guidelines for the conversion of
agricultural lands for non-agricultural or tourism purposes. Further the punitive measures
offered were not at all stringent enough to thwart changes in land use for non-agrarian
purposes.

The Kerala Industrial (Prohibition of Obstructive Practices) Bill 2002 sought to outlaw any
obstructive practices against an industry initiated after getting the clearance of the
government and other concerned agencies. Any kind of protest either in the name of local
employment reservation or environmental issues or rehabilitation issues could be prohibited
from the time of land acquisition itself according to the bill. Any form of labour strike could
also be termed illegal as per the bill.

The attempt was to deny the democratic right to dissent, a right of the concerned
communities while initiating an industry. The bill set conditions which defined any form of
action by civil society or political organisations against an industrial project as a criminal
offence. The extent of punishment for obstructing an industry was set higher than that of
causing land use change in contravention of the guidelines under the Land Use Bill. Further
the offences in relation to this were considered as cognisable. Such attempts should be seen
in the light of sprouting of protest movements across Kerala and India posing relevant
questions on human rights, social and ecological justice against different industrial as well
as infrastructural development ventures.

A government order from the revenue department in November 2011 gave paddy field
conversion rights for contributors of paddy land for development projects that is 50% of the owned land could be “legally” converted if land contribution is done for the projects. The order came in the context of the proposed Kottayam Corridor Project and Kudimatha Mobility Hub Society (a 125 acre real estate project with plans of exhibition centre, convention centre, cricket stadium and tourism facilities, landscaped walkways, cycling tracks and water sport activities) in Kottayam district of Kerala. Giving land filling rights to contributing land owners cannot be claimed a legal provision but is only an administrative strategy for land pooling to the benefit of real estate groups.

The action was justified by the state by arguing that the paddy field notified for the hub is “uncultivated” land which again contravened the provisions of the 2008 act which said only “uncultivable” wetland could be reclaimed if needed. Also the issue reflects the erratic development ideology of the state which decides to convert ecologically sensitive paddy fields for cricket stadiums, exhibition centres, water sport activities etc. Paddy fields are written off as uncultivable and infertile in the manipulated reports to serve private interests and for profiteering in the name of development. Even after the amendment to the act in 2015 another attempt was made by the Revenue department to permit private entrepreneurs to fill upto 10 acres of paddy field for industrial purposes through an amendment of the conservation Act, but had to back out due to protest from various quarters.

The agriculture department has no say in land utilisation and the revenue department is considered to be the “custodian” of all the government land, inclusive of agricultural land. But in many instances the industrial department and finance department exhibit overriding powers in land utilisation. This is evident from the revenue department order [v] in 2012 which mandated that all government orders sanctioning land acquisition for various projects shall be issued only by the revenue department. The order mentioned that the revenue department is unable to maintain data on the land being acquired by different departments/agencies for various purposes and has lost control over the land acquisition procedures. The role of various powerful stakeholders, especially the industrial department in facilitating unbridled land acquisition, adversely affects the conservation of wetlands and paddy fields. Even the State Act in Kerala which aims at the conservation of paddy fields and wetlands states they can be acquired if it is for a public purpose.

**No Ecological Rationale in Decision-making**

The present development scenario demands agricultural land for industrial and infrastructural development and other real estate transactions. The social and ecological rationales of land use are suitably erased into oblivion in the current mode of apolitical decision-making where economic factors become the sole factor in these matters.

Even a long term economic rationale in terms of the ecological role of wetlands and paddy fields is subverted here. The new amendment act characterises purposeful flexibility and
weakening of existing state policies in matters regarding protection of common property resources which ensure food, water and other ecological securities. The contradictory positions exhibited by the existing state policies on agriculture protection, wetland conservation, industrial development contribute to the absence of a rational decision on paddy fields and wetlands in social, economic and ecological terms. The contradictory administrative functions of the revenue department also determine the deterioration of productive land use in the state. The same department which is currently vested with the power of decision-making on the conversion of wetlands is also vested with the power to acquire lands for development projects.

Also it is seen that finance and industry departments override the powers of the revenue department in determining land use. The agriculture department, which in actuality should be the most significant stakeholder in evolving policies on agricultural land use, remains a silent spectator of the processes and practices that emerge.

**Way Forward**

It is high time to think about the water security, food security and ecological security of the state to avoid an environmental and social catastrophe. The state should immediately revoke the new act and initiate an action plan for the conservation of the remaining paddy fields and wetlands of the state, considering the ecological and social function of the resources. The databank of paddy fields and wetlands need to be updated and errors rectified both manually and with technological support using satellite imageries. The state should take proactive action in reasonable allocation of funds and encourage cultivation of cultivable fallow lands to ensure conservation. A regular monitoring mechanism for the conservation of paddy fields and wetlands should be initiated.

Overarching powers of the various administrative departments and the collector in converting and reclaiming land should be revoked. The local self-government should make use of the constitutional powers and take a significant role in the conservation of paddy fields and wetlands. The loopholes in the existing laws which facilitate accumulation and conversion of wetlands and paddy fields should be identified and addressed. A strong political debate should be initiated for a proactive intervention on land use and conservation policies of the state.

**Notes**

[i]  One are is equivalent to 2.47 cents


[iii] The Kerala Land Utilisation (KLU) Order was formulated in 1958 and later on amended with enlarged powers in 1967 under the Essential Commodities Act 1955 as a response to
address the acute food security in the state. The Order aimed to protect agriculture especially paddy, through stringent measures to prohibit non-agricultural use or alternate agricultural use of land. As per the Order even fallow land could be taken over for cultivation by the government.

[iv] GO(Rt) No157/2002/AD by Agriculture Department dated 2nd February 2002

[v] GO(Ms) No 182/2012/RD, Revenue (B) Department, dated 3rd May 2012