

THE RIGHT TO WATER SECURITY BILL, 2014

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STATEMENT OF OBJECTS AND REASONS

The waterbodies that India prides about are being irreversibly lost or destroyed at an alarming pace and threaten the right to water security of India. The right to water-security, and consequently food security, of the country and its people will be irreversibly destroyed if the waterbodies are not protected. The alarming pace of climate change and the resultant impact on monsoons threatens to make regions of India to become water scarce from already being water stressed. The culture of India has always protected *neer*, *nadi* and *nari* (water, river and woman) and it is important to ensure that this tradition is carried forward through this Act.

There is therefore an urgent need to assert the right and provide for the security of waterbodies to safeguard and secure the right for not only today but for generations.

A right defines and empowers what one may do without the permission of others. It creates a moral and legal barrier that others may not cross.

One's exercise of a right does not diminish the rights of others. It only imposes the obligation of non-interference on others. A right is one's protection against those who attempt to forcibly take their life's time, dignity, freedom, resources, money or property.

A right is not actualized and implemented by the actions of others. A right is the power to act without the permission of others.

An Act providing a right must grant you an immediate and complete access to relating to one's transaction during the transaction itself. Such access must not endanger the right of others, particularly the right of those who may not be present or able to seek such rights such as the future generations those in other locations or those life-forms without a representation.

As such, it is proposed to pass the Right to Water Security Act, 2014, accordingly to empower a right and not a privilege.

The Right to Water Security Act is an Act to provide for water security, by ensuring sustainable access to abundant quantity of quality water to live a life with dignity and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:

CHAPTER I PRELIMINARY

Short title and commencement

1. This is an Act to provide a Right to Water Security;
 - (1) This Act may be called the Right to Water Security Act, 2014.

- (2) It extends to the whole of India.
- (3) Save as otherwise provided, it shall be deemed to have come into force on , 2014.

Definitions

2. In this Act, unless the context otherwise requires,
 - (1) "aquifer" means a geological structure or formation, or an artificial landfill, that is permeated with water or is capable of being permeated with water;
 - (2) "aquifer interference activity" means an activity involving the penetration of an aquifer, or the interference with water in an aquifer, or the obstruction of the flow of water in an aquifer, or the taking of water from an aquifer in the course of carrying out construction, mining, or reclaiming, or the disposal of water taken from an aquifer in the course of reclaiming, mining or construction, or the contamination of water in the aquifer with pollutants;
 - (3) "area sabha" shall be a formal or informal body of local residents;
 - (4) "biological integrity" exists if the ability to support and maintain a balanced, adaptive community of organisms having a species composition, diversity and functional organization comparable to that of natural habitats of the region is maintained;
 - (5) "conservation of waterbodies" means all acts that ensure the ecological, biological and hydrological integrity is preserved;
 - (6) "destruction of waterbodies" means all acts that ensure the ecological, biological and hydrological integrity is disturbed or destroyed;
 - (7) "drainage basin" or "catchment area" is an extent or area of land where surface water from rain or melting snow or ice converges to a single point, usually the exit of the basin, where the waters join another waterbody, such as a river, lake, reservoir, estuary, wetland, sea, or ocean. The drainage basin includes both the streams and rivers that convey the water as well as the land surfaces including the mountains and hills from which water drains into those channels;
 - (8) "ecological integrity" is maintained if, when subjected to disturbance, the waterbody sustains an organizing, self-correcting capability to recover toward an end-state that is 'normal' or 'good' for that system;
 - (9) "exploitation" shall mean water use made by a person exceeding the WHO norms per person;
 - (10) "habitat" means any census village or census town;
 - (11) "hydrologic integrity" exists if balanced hydrologic, hydraulic conditions on a temporal and spatial scale that are comparable to the natural characteristics of the region are maintained;
 - (12) "monsoon" means seasonal changes in atmospheric circulation and precipitation associated with the asymmetric heating of land and sea. It includes both the south-west monsoon arriving in June as well as the north-east monsoon arriving in September.
 - (13) "local authority" means a panchayat, municipal corporation or a municipal council (by whatever name called) or a cantonment board or any other body, entrusted with the duty of supplying the water under the law by or under which it is constituted;
 - (14) "notification" means a notification issued under this Act and published in the Official Gazette;
 - (15) "person" shall include any organization or government under whatever law constituted;
 - (16) "protected" shall mean any violation under this act shall be cognizable offence under the Indian Penal Code 299, 304A, 308, 316-338 and other relevant sections;

(17) "rainwater harvesting" is the accumulating and storing, of rainwater. Watercourses are natural rainwater harvesting systems. The rate at which water can be collected from such systems is dependent on the area of the system, its efficiency, and the intensity of rainfall (i.e. annual precipitation (mm per annum) x square meter of catchment area x percolation efficiency = liters per annum yield). In the case of channelized rivers efficiency is close to 0;

(18) "reserved" shall mean unavailable for any purposes other than the natural purpose;

(19) "river" includes any surface or subsurface watercourse, whether perennial or intermittent and whether comprising a natural channel or a natural channel artificially restructured, and any tributary, branch or other watercourse, by whatever name called, into or from which a watercourse flows;

(20) "river conservation zone" includes all such portions of private land that fall within 100 m on either side of the floodplain of the main river or lake and 10 m on either side of the floodplain of a tributary or branch or other watercourse;

(21) "Schedule" means a Schedule appended to this Act;

(22) "social audit" means the process in which the area sabha will monitor and evaluate the status of the waterbodies in their water block, the implementation of this Act and the planning and implementation of any programme or scheme within the scope of this Act;

(23) "State Government", in relation to a Union territory, means the Administrator thereof appointed under article 239 of the Constitution;

(24) "sub-surface water", or "groundwater", is water located in the pore space of soil and rocks. It is also water that is flowing within aquifers below the water table; Sometimes it is useful to make a distinction between sub-surface water that is closely associated with surface water and deep sub-surface water in an aquifer;

(25) "surfacewater" means water flowing over land (except in a watercourse) after having fallen as rain or hail or having precipitated in any other manner; or after rising to the surface naturally from underground; or that has been collected in a dam or reservoir; or water that is contained in any stormwater infrastructure;

(26) "sustainable withdrawal" means withdrawals that are at a rate that is less than the rate of recharge and in doing so do not diminish the rate of flow of the river by more than 1%;

(27) "to take" water from a water resource includes to take water by pumping or siphoning the water, to stop, impede or divert the flow of water over land (whether in a watercourse or not) for the purpose of collecting the water, to stop, impede or direct the flow of water in any storm water infrastructure for the purpose of collecting the water, or to extract any water from storm water infrastructure, to divert the flow of water in a watercourse from the watercourse, to release water from a lake, to permit water to flow under natural pressure from a well, to permit stock to drink from a watercourse, a natural or artificial lake, a dam or reservoir, to cause, permit or suffer any activity referred to in a preceding paragraph;

(28) "underground water" means sub-surface water occurring naturally below ground level or water pumped, diverted or released into a well for storage underground;

(29) "water body" shall mean any lake, river, pond, nala, stream, tank, well or any other distinct mass of seasonal or perennial water whether publicly or privately owned, including the banks and shores thereof. A water body shall also include all tributaries upstream or sub-surface and catchment for monsoons and absorbing and releasing rainwater;

(30) "water block" shall mean an area covered by a circle of a radius of 20 times the width of the waterbody at any point of withdrawal;

(31) "water carrying-capacity" is the maximum population a region can be supplied water as per WHO norms without resorting to any imports;

(32) "watercourse" means a river, creek or other natural watercourse (whether modified or not) in which water is contained or flows whether permanently or from time to time and includes the entire drainage basin, a dam or reservoir that collects water flowing in a watercourse or a lake through which water flows or a channel into which the water of a watercourse has been diverted or an estuary through which water flows;

(33) "waterfront" means: the bed of any river, together with any land lying between the bed of the river and a line drawn parallel to, and the prescribed distance inland of, the highest bank of the river, or the bed of any lake, together with any land lying between the bed of the lake and a line drawn parallel to, and the prescribed distance inland of, the shore of the lake, or the bed of any estuary, together with any land lying between the bed of the estuary and a line drawn parallel to, and the prescribed distance inland of, the mean high water mark of the estuary, or the bed of the coastal waters of the State, and any land lying between the shoreline of the coastal waters and a line drawn parallel to, and the prescribed distance inland of, the mean high water mark of the coastal waters, where the prescribed distance is 40 metres that lesser distance. Land that falls into 2 or more of the categories referred to may be waterfront land by virtue of any of the paragraphs relevant to that land and it shall include all such wetland and river conservation zone whether inside or outside the prescribed distance;

(34) "water scarce" means the region lacks sufficient water resources to meet the demands of water usage;

(35) "water security" shall mean the protection of the continued existence and flows of all water bodies so that the water access of the future generations may not be compromised for expediency;

(36) "water stress" means the demand for water exceeds the available amount during a certain period or when poor quality restricts its use;

(37) "water source" means the whole or any part of: one or more rivers, lakes or estuaries, or one or more places where water occurs naturally on or below the surface of the ground, and includes the coastal waters of the State;

(38) "well" means an opening in the ground excavated for the purpose of obtaining access to underground water or an opening in the ground excavated for some other purpose but that gives access to underground water or a natural opening in the ground that gives access to underground water;

(39) "wetland" means an area that comprises land that is permanently or periodically inundated with water (whether through a natural or artificial process) where the water may be static or flowing and may range from fresh water to saline water and where the inundation with water influences the biota or ecological processes (whether permanently or from time to time) and includes any other area designated as a wetland— but does not include—a dam or reservoir that has been constructed by a person wholly or predominantly for the provision of water for primary production or human consumption; or an area within an estuary or within any part of the sea;

CHAPTER II PROVISIONS FOR WATER SECURITY

3. Every local authority shall

(1) Maintain records of survey numbers adjoining to water bodies duly catalogued and indexed in a manner and the form which facilitates the right to water security under this Act as well as specified in Schedule I, and ensure that all records that are appropriate to be computerised are, within a reasonable time, computerised and

Records and
audit

connected through a network all over the country on different systems so that access to such records is facilitated;

(2) Publish within one hundred and twenty days from the enactment of this Act maps of all water bodies, hills and mountains within the area falling under their jurisdiction and declare them to be permanent easements reserved and protected within the meaning of this Act;

(3) Declare on their websites and through press-releases circulated to every newspaper, radio and tv channel in the region that all the listed water bodies and any that may have been missed by omission or commission as permanent easements and reserved and protected within the meaning of this Act; It will be mandatory to all media to publish this press release failing which it will be deemed an offence punishable under this Act to the extent of having to issue a free one page advertisement of the press release or a free 2 minute audio/video advertisement on electronic media;

(4) Provide to the district administration, within one hundred and twenty days from the enactment of this Act, an action plan, allocate resources, and to free water bodies from violations and any aggression or pollution under this Act within a reasonable time not exceeding 3 years;

(5) Undertake and publish a social audit of all water bodies and waterfronts before December each year;

(6) Publish before 31st of March each year an Audit report of the status of waterbodies by the CAG;

(7) Prohibit the growth of habitation beyond the water carrying capacity, or lack natural capacity to absorb pollution free effluents from treatment processes or plants, and halt all growth of habitations till they lack necessary implementation to ensure water security within the meaning of this Act.

Restrictions on law making

4. Notwithstanding anything contained in any other law for the time being in force, no State Government or other authority shall make, any law or order directing-
 - (1) that any water body or any portion thereof, shall cease to be reserved;
 - (2) that any water body or any portion thereof may be used for any purpose other than its natural function as a water body;
 - (3) that any water body and waterfront or any portions thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organization;
 - (4) that any water body or waterfront or any portions thereof may be not be cleared of any vegetation which have grown naturally in that land or portion, for any purpose;
 - (5) that any water body or waterfront or any portions thereof may be not be used for any mining, dumping, construction or allied activities.

CHAPTER III RESTRICTION OF ACTIVITIES ON WATER BODIES

5. No person may build any walls, fences, barricades, channels, buildings, sheds of temporary or permanent nature within any water body or waterfront or any portions thereof; Prohibited activities
6. No person may lay any pipes, cables, or any other construction in any water body or waterfront or any portions thereof;
7. No person may undertake any industry in any water body or waterfront or any portions thereof.

8. No person may undertake to farm, mine, or use for dumping storage or as roads any water body or waterfront or any portions thereof;
9. No person may release or cause to release any substances, sewage, sullage or effluents or contaminate any waterbody;
10. No person may undertake any activity or cause to do any activity on any water body or waterfront or any portions thereof that will cause the destruction of the waterbody or will alter its natural flow or pose any threat to the biological or ecological or hydrological integrity;
11. No person may undertake any activity that can result in or be deemed as aquifer interference activity;
12. No person may exploit or cause the exploitation of any water body;
13. No person may take more water than their share of the water block to which they belong;
14. The reserved and protected area may be demarcated by a wire fence or mounds of debris with vegetation plantation on it if the adjoining property has human habitation; Permitted Activities
15. Rainwater may be released into water bodies or waterfronts provided it is released through open streams and not pipes and is not contaminated with any pollutants;
16. Water may be drawn from such rivers provided it is drawn from an open stream made for the purpose that does not exceed ten times the width of the river in length and a tenth of the diameter of the river and further no such harvest may exceed the sustainable withdrawal and that such withdrawals do not block access to the withdrawn water from anyone within the water block;
17. Fishing may be permitted during such seasons that may be designated through notification as fishing seasons;
18. Waterbody conservation activities and afforestation with indigenous trees on waterfronts where no trees exist;

CHAPTER IV GOVERNANCE AND PENALTIES

19. A River Panchayat or Area Sabha for a waterbody may be formed by all such stakeholders whose life and livelihood is affected by disturbing the *natural* existence of the waterbody by virtue of any of the following: Self-governance of waterbody blocks
 - (1) They live within the waterbody block;
 - (2) They fish in the waterbody;
 - (3) They depend on the waterbody for rainwater harvesting;
20. All such people may hold a panchayat similar to a gram sabha and undertake to protect the rights of the river and bring effect to water security within the meaning of this Act;
21. The Panchayat may have all such powers to ensure the biological, ecological and hydrological integrity of the waterbody. The resolutions of the Panchayat on ensuring the integrity of the waterbody shall be binding on the Local Authority provided that the Panchayat draws no more water than permitted under this Act;
 - (1) The Panchayat shall ensure that no person is deprived of water access or permitted privilege beyond permissible under this Act for any reason and particularly of gender, caste or economic and social status;
 - (2) The Panchayat shall conduct a quarterly physical audit of the following:

- (i) The free and natural flow of the water;
- (ii) The absence of encroachments on the waterbody and waterfront;
- (iii) The absence of pollution through any discharge into the waterbody;
- (iv) A list of the users with access to the waterbody;
- (v) The water withdrawal rate by the block;
- (vi) Restrictions, if any, on drawing water, flora or fauna from the waterbody;
- (vii) These audit reports will be published as a "State of the waterbody" by the local authority on its website before December each year;

(3) Each Panchayat can nominate one person to a waterbody parliament of the the waterbody if there are more than one panchayats on the waterbody;

(4) The waterbody parliament will exercise all such powers to maintain the biological, ecological and hydrological integrity of the watercourse;

Offences to be cognizable

22. All prohibited activities shall be cognizable offences chargeable with the maximum penalties under the relevant IPC and a punishment requiring the violator to pay fully for the restoration of the waterbody and to devote 10 years, compoundable for each offence committed, to the mapping of water bodies in the region and providing a detailed report that on their exploitation at each location to the Area Sabhas, the local Police and the local authorities; The local body shall publish all such reports on their website;

23. Failure of local authorities to fulfill their obligations under this Act shall be deemed as offence under IPC 166-169;

SCHEDULE I
RECORD OF WATERBODIES

Name of Local Body:

Date of Record:

No	Waterbody name and description	Survey No on Left Bank	Survey No on Right Bank	Surface Area of waterbody	Area of waterfront on left bank	Area of waterfront on right bank

NEW DELHI;