

Memorandum for Restoration, Reclamation and Conservation of Ponds for Protection of Customary Rights of Community, Environment, Ecology & Livelihood in Darbhanga District of Bihar	
Submitted to:	DM/Collector, Darbhanga, Bihar
Prepared & Submitted by:	TALAB BACHAO ABHIYAN (TBA) C/O MITHILA GRAM VIKAS PARISHAD (MGVP) Professor Colony, West of Dighi Tank, Darbhanga, Bihar, India, PIN: 846004.

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| 1. The Hon'ble Chief Justice of Patna High Court | 4. The I.G. of Police, Darbhanga. |
| 2. The Chief Secretary of Bihar, Patna. | 5. The D.I.G of Police, Darbhanga |
| 3. The Commissioner, Darbhanga | 6. The S.S.P, 7. S.P., Darbhanga |

Copy Enclosed:

1. The Hon'ble Supreme Court's Orders (Case No. Civil Appeal 4787/2001 & 1132/2011)
2. Twenty Four Photos related to conditions of 14 Ponds.
3. List of Ponds with map, reported by Dr S.H, Bazmi, Prof. of Botany, Millat College
4. Photocopy of Signatures of Participants of TBA Meeting & its reporting in media/photo copy,

1. Mithila: Land of Ponds

MITHILA, can be called a land of ponds. There are 9115 ponds in Darbhanga district and 10,746 ponds in Madhubani district. Similarly, numbers of ponds varies from 5000 to 9000 in Supaul, Sitamarhi, Samastipur and other districts of North Bihar. Pond is locally called *Pokhari*. Area of pond varies from about 1 acre to 150 acres. The excavation of a pond is considered as a very pious/religious act. After excavation of a pond, it is dedicated (UTSARGA) by its excavator to all living beings for their survival and need of water. At the time of UTSARGA of a pond to all living beings, the excavator clearly and specifically chants name of **human, cattle, bird, insect and species which survive in water**. This way, community exercises age old tradition of customary rights over a pond for irrigating agricultural land, bathing and washing, and for providing safe drinking water, as well as water for bathing their cattle.

Pond's existence, a precious water resource, is under alarming threat because of the nexus among land/pond mafias, criminals, greedy and corrupt persons. Darbhanga town had 213 ponds in 1989-90, as per report of Dr. S. H. Bazmi, Assot. Prof. of Botany, Millat College, Darbhanga. It is noted that more than 50 ponds have been completely leveled to the ground, and houses, hotels, shops, commercial complex, private hospitals, coaching centre and offices have been built upon them. Even today, pond's area and its water bed are being encroached upon and occupied in blatant disregard of the various orders of the Hon'ble High Court and the Supreme Court of India.

2. Importance of Pond:

The pond has cultural, economical, environmental and ecological importance including flood and drought mitigation, which can be underlined under the following heads:

- **Recharging Groundwater:**

Pond helps in recharging of ground water. Growing depletion of ground water is a serious concern everywhere including Bihar and Darbhanga. It is utilized for harvesting of rain water, and to promoting the use of surface water. Pond fulfills this objective adequately.

- **Common Need of Community:**

Pond is a place of bathing and washing clothes for the community. Its water is used for irrigation of agricultural land during non-monsoon seasons, and for meeting needs of cattle. Therefore, pond must be protected to reduce over exploitation of ground water and the quality of its water must be ensured so as to prevent health hazards of common people.

- **Livelihood & Nutrition:**

It provides livelihood to weaker section (fishermen, locally called Mallah or Sahani or Mukhiya) of the society and nutritional food to human beings in the form of fish, snail and crab. Farming of fish and makhana (*Eurela ferox*) are two major crops of the pond. Besides them, snail, crab and other produces also provide livelihood.

- Aquatic Life:

Water area of a pond provides space to live and survive a wide variety of fishes, crabs, snails, insects, tortoise, snakes and frogs, besides, water-weed and grass. They work as a food chain system and help in maintaining cleanliness of pond water.

- Birds:

More than 70 to 80 varieties of birds feed on small fishes and insects provided by the pond. More than hundred varieties of fish species including crabs, snails and insects are on the verge of extinction due to poisoning of pond for cleaning the pond from unwanted fish and its harvesting, and pollution of water.

- Shelter for Wild Animals:

Pond's Mahar/Bhind/Bhir (high raised earth wall around a pond/ pond bund) covered with trees, grass, bush and shrub provides natural habitation/shelter belt for small and regional wild animals and birds in rural areas.

- Cultural & Festival Place & Common Heritage of Culture:

Pond is a common cultural and festival place of all castes and sects, no matter who excavated it. Excavation of pond is a religious act like building of a temple/ mosque/church, but with secular approach. For instance, Mirja Khan Talab/Pond in Darbhanga town was built/excavated by a Muslim, but Hindus perform all kinds of religious festivals there. Similarly, Harahi pond was excavated by a Hindu king, but Muslims immerse their Tiziya in this pond.

- Flood & Drought Mitigation:

Pond bund provides safe place for shelter during flood period. In 1987 flood, more than 10,000 people took shelter on pond bund/Mahar of Badh Pond in Kyoti and people of Nesta Gram Panchayat took shelter on pond bund of Holiya Pond. In 2004 flood, Dighi pond of Darbhanga took about 3 to 4 hours to fill with water and thereby provided sufficient time(3 to 4 hours) for people to shift to safe place or to take safety measures.

3. Religious View on Pond:

Pond is associated with the Indian culture since the beginning of its history. There are detailed instructions and norms for formation and maintenance of pond and water body. We find the earliest information about it in the Rig-veda. During compiling of Grihyasutra and Dharmasutra, between 800 to 300 BC, excavation and protection of pond attained religious significance. As per these religious texts, any person, man, or woman, irrespective of caste, creed or category, is appreciated for excavating pond and performing the concerned YANGYAN (religious ritual) for the betterment of society and all species. Vishnudharmasutra regards such persons worthy of blessings and boons. An eminent Sanskrit Poet, Bann Bhatta, has considered making pond as one of the most pious deeds, in his famous book Kadambari (700 AD).

One ought to preserve, adapt, and promote good practices and noble thoughts of one's tradition and culture. Vardhaman Upadhyaya wrote two books, namely Taragmritlata and Jalashayadvastupadhati, somewhere in between 11th and 12th AD for religious rituals (yagyan) of pond. The main message of these books is like this "in the presence of TRIDEV (Three gods namely Brahma, Vishnu and Mahesh), I (the pond-creator) present (UTSARGA) this pond to all living beings (say human, animal, bird and insect) for meeting their various needs of water for drinking, bathing, survival and strength. During the process of religious rituals, metal-made fish, snail, crab, tortoise, snake and crocodile are immersed into the newly created pond with humble request to them for maintaining cleanliness (NIRMAL JAL) of its water. The book highlights that when a pond creator presents his/her pond to all living beings, he/she cannot claim for ownership over the pond. The pond creator has equal rights to get the benefit of the pond as other person or a living being has.

(Source: Based on Discussion with Sanskrit Scholars : Dr Sada Nand Jha, Dr. Vidyeshwar Jha, Dr. Visweswar Jha, and 'Significance of Pond in Rural Life of Mithila' by Dr. Hetukar Jha, published in Jigyasa, July-December 1995)

4. Traditional Design & Structure of Pond:

It is important to know the different parts of pond's body and their roles, if we work for its restoration, reclamation, conservation and for protection of pond based ecosystem, which can be underlined in the following heads:

4.1 Mahar or Bhir (High Raised Earth Wall Around a Pond):

Pond bund is locally called Mahar or Bhir, which works as a protection wall and is the outer boundary of a pond. Mahar could be termed as a crown of a pond. Traditionally, Mahar is used for planting of mixed trees, grasses (locally called khar and kharahi), and bamboos. Many kinds of small plants naturally grow on the Mahar. A Mahar covered with trees, grass, herbs and small plants gives a true impression of forest-belt, which protect soil erosion of the Mahar and provide natural shelter to local wild animals and those birds who like to live away from human habitation. The Mahar works as a place of safety during flood time, people used to take shelter on the Mahar with their cattle and belongings.

4.2 Inlet & Outlet of Pond's Water :-

Every pond used to have provision of inlet and outlet of water. In rainy season, fresh water of rain would enter into the pond from its inlet, and filled the pond. The excess water used to flow from its outlet, when pond would fill with fresh rain water. The pond's inlet and outlet of water was generally located at its opposite ends to facilitate fresher water in and dirtier water out in rainy season. Thus, Inlet and outlet play an important role in refreshing the pond's water.

4.3 Kachhar/Kachhair & Angnai:-

Bank of pond is locally called Kchhair/Kachhar. Slope area between top of pond bund and bank of Pond is called Angnai/courtyard of a pond. This place is used by fishermen for throwing fish net into the pond to catch fish, by community to catch fish using fishing-hook and other things; by the community people during religious and cultural festivals. Angnai is used to make separate Ghat (place of bathing) for human and cattle. Kachhair is a breeding ground for traditional varieties of fishes, snails and crabs during rainy season. Mothi, long water-grass used for making mat (locally called Patiya), was cultivated on the Kachhair of a pond.

4.4 Painjhar or Jal Kshetra (Water Area/Pond bed):

Water area (pond-bed) of a pond is locally called Painjhar or Jal Kshetra. Water-area varies from season to season in a year. Highest level of water remains in a pond during the monsoon period. The different varieties of fish and other living beings support one another which ultimately regulate and maintain the food-chain, juxtaposing the act of maintaining cleanliness of pond water through their collective work. **This is a natural way to maintain pond's water clean.** Some kinds of grass also grow in the pond, which provide natural feed to fish and others.

5. Conditions of Ponds in Darbhanga District:

5.1 Damage, Encroachment & Pollution:

In urban areas, pond bund/Mahar, its slope/Kachhar and inlet & outlet of all ponds have been illegally sold/occupied or encroached for construction of houses, shops, schools, hospitals and commercial complex by doctors, engineers, college teachers, businessmen, political leaders and officers. Sewage, garbage and medical garbage of the town are routed to ponds. Pond's water reached the dangerous level of pollution. If the situation continues for a longer period, it will create arsenic in ground water!

In rural areas, pond bund/Mahar, its Kachhar and inlet & outlet are being encroached and occupied for building houses or converting them into farm land. Traditionally, Mahar and Kachhar were not used for the purpose of crop farming, like paddy, wheat and other cereals, which need ploughing and digging at regular intervals, with a view to prevent siltation of the pond.

5.2 Poisoning in Pond:

In the name of scientific fish farming, the concern department (fishery) promoted idea to kill the unwanted fish (about 40 types) including snails, crabs, tortoise, snakes, and insects. This idea is popularly known as cleaning of pond. Now poisoning is done for harvesting of fish also. Industrial form of fish farming needs a special design of tank/pond (length, width, depth & water level) and a special treatment with pond for achieving growth of selected fish and target. The

same method and treatment should not be allowed in the traditional community pond. The traditional pond has been excavated for fulfilling **needs of water of all living beings, which respects the diversity of aquatic life**, as our old literature related to ponds says. So, we need a different scientific method for promotion of fish farming in our traditional pond.

In rural and urban areas, every year thousands of idols of gods (Krishna, Indra, Viswakarma, Ganesh) and goddesses (Durga, Kali, Saraswati, Chaiti Durga, Jagatdhatri) are immersed in pond. The chemical compositions of paints, which are used for glowing colours of the idols, are mixed with lead and poisonous chemicals, which dangerously pollute pond's water. This practice must be discouraged and should be reformed.

5.3 Pond Area Occupied By Administration & Other Departments:

In every district, pond's land has been occupied for construction of school building, market place, hospital and settling up new colony, Panchayat Bhawan etc. without consideration of damages and threat to ponds' existence by the structural intervention. Some cases of Darbhanga town and rural area are highlighted in the table below:

Name of Pond	Location	Occupied by Administration or Gram Panchayat
1. Dighi Pond Please see photo no. 14.	Western side	Primary school was built in a congested and unsafe area towards water bed of the pond. Please see photo no. 14.
	Northern side	Museum was built over 4 acres of pond's land
2. Harahi Pond, Darbhanga.	Western Side	* Just near the western bank of pond, 10 foot width & approx. 600 meters long RCC Road was built from north to south. Just beside the road, approx. 500 meters brick boundary wall constructed by L.N. M. University. This is the only spot in the town where thousands of people gathered for celebrating Chhatha Pooja/ religious festival once in a year for last several years.
3. Ganga Sagar Pond, Darbhanga	East, North, West & South sides of Pond's bank	Approx. 80% of area around the pond's bank RCC road has been built, which helped pond mafia to settle new colony over the pond bed by encroaching and selling of the pond's land.

	Northern & Eastern side	Recently in 2012, a fish market has been built over one acre of pond's land and bed. Please see photo no. 5.
Holiya Pond in Nesta Village	Western side	Gram Panchayat built a road just near the bank of pond. Please see photo no. 24.
Ekbhinda Pond At Village in Darbhanga dist	Northern side	A new colony was settled by district administration over the pond bund.

5.4 Condition of Historical Ponds:

There are about 100 ponds of huge size, which were excavated in between 1100 AD to 1600 AD. There are many folk stories about pond's excavation and serving to people. The following historical ponds of rural and urban areas reveal their damage, destruction, pollutions and threat to their existence:-

SN	Name of Pond & Built By	Approx. Area in	How Old Approx.	Conditions
1	Ganga Sagar Pond By King Gang Deo Singh (1136 -1148 AD) Please see photo no. 1, 2,3,4,5,6,	78 Bigha (28 Hectares)	865 years, Rectangular in size	Occupied & encroached from all sides (east, west, north and south) of the pond. Sewage & garbage routed to pond, 50% water surface is covered by water-lily, extreme polluted water, a lot of people still bathe in the pond; inlet & outlet of pond closed or encroached, water looks deep Green.
2	Dighi Museum Pond By King Shakra Deo Singh (1288-1303)*. Please see photo no. 13, 14.	112 Bigha (41Hectares)	710 years, Rectangular in size	Occupied & encroached from all sides; sewage & garbage routed to pond; total water area is covered by water-lily; extremely polluted water; common people now do not bath in the pond; the pond's inlet & outlet are closed due to encroachment, Water looks black.
3	Harahi pond by King Harisingh Deo (1304-1324)*. Please see photo no. 16,17,18	62 Bigahas (22.5 hectares)	665 years, Rectangular in size	Occupied & encroached from 2 sides; sewage & garbage routed to the pond; extreme polluted water; common people still bath in the pond; inlet & outlet of pond water closed or encroached, Water looks deep Green due to excess of green algae.
4	Mirja Khan Talab		Rectangular in size	Occupied & encroached from all sides; sewage & garbage are routed to this pond; 70% of water surface area is covered with water-lily; threatening water-quality; common people still bathe in the pond; inlet & outlet of pond is closed or encroached. Water looks deep Green due to excess of green algae.

5	Raj Dighi,			Water is comparatively cleaner; Encroachment started within 6-7 years in the western side of pond; inlet & outlet of pond water closed and encroached. Water looks deep Green due to excess of green algae.
6	Bela Dighi Please see photo no 19.			Occupied & encroached from all sides; sewage & garbage are being routed to the pond; the entire surface water is covered by water-lily and different kinds of grass; extremely polluted water; common people do not bath in the pond; pond's inlet & outlet is closed or encroached, Water looks black.
7	Ghaurdaur Pond, Raghopur Village by King Deo Singh (1403-1445)*	2.5 km length**	600 years, Rectangular in size	Water surface is covered by water-weed and grass for more than 20 years. Note: There are many historical ponds in rural areas, which are known as dighi, rajokhar, Ghaurdaur, Holiya, Mahadeo Pokhar. Water looks black.
8	Ghaurdaur Pond, Bharwara Village by King Deo Singh (1403-1445)*	1.5 km length**		

*Source: Riaz-i-Tirhut of Ayodhya Prasad "Bahar" was published in 1868 in Urdu and Mithila Darpan of Ras Bihari Lal Das, was published in 1915 in Hindi.

**Source: Based on local people information.

6. The Hon'ble Supreme Court's Order:

The Hon'ble Supreme Court has also been watching with anguish the terrible state of affairs in protecting lakes and other public commons across India. The Hon'ble Supreme Court has consistently held that lakes and such other commons must be protected for the benefit of current and future generations, to build water security for all and also for supporting traditional livelihoods and the conservation of biodiversity.

6.1 Hinch Lal Tiwari Vs. Kamala Devi and Ors. (Appeal (civil) 4787 of 2001): The Hon'ble Court ordered 'It is important to notice that the material resources of the community like forests, tanks, ponds, hillock, mountain etc. are nature's bounty. They maintain delicate ecological balance. They need to be protected for a proper and healthy environment which enables people to enjoy a quality life which is the essence of the guaranteed right under Article 21 of the Constitution. The Government, including the Revenue Authorities i.e. Respondents 11 to 13, having noticed that a pond is falling in disuse, should have bestowed their attention to develop the same which would, on one hand, have prevented ecological disaster and on the other provided better environment for the benefit of the public at large'.

6.2 Jagpal Singh and Ors. vs. State of Punjab and Ors. (Civil Appeal No. 1132/2011):- the Hon'ble Court has laid down fundamentally the interpretation of law and practice with regard to management and conservation of lakes/ponds as public commons. Further, considering the task of protecting such water bodies for the benefit of current and future generations, the Hon'ble Supreme Court has directed as follows:

“Let a copy of this order be sent to all Chief Secretaries of all States and Union Territories in India who will ensure strict and prompt compliance of this order and submit compliance reports to this Court from time to time.” The Court clarifying its intent to ensure no dereliction of its orders has further directed that the matter “...be listed before this Court from time to time (on dates fixed by us), so that we can monitor implementation of our directions herein. List again before us on 3.5.2011 on which date all Chief Secretaries in India will submit their reports.”

7. The Hon'ble Patna High Court's Order:

Regarding demolition, road widening, removal of encroachment etc., in the case of Arun Kumar Mukherjee VS. State of Bihar (CWJC No. 2290 of 1996):-

The Hon'ble Patna high Court has repeatedly given orders and directions to the Bihar Government and all District Magistrates and other concern authorities for demolition and removing of encroachments from **public lands, roads and flanks of the road, parks and green zones (Emphasis added)**. On dated 19/5/1998, the Hon'ble Court has ordered:-

“By the order dated 12/7/1996 we have directed the Registrar General of this Court to prepare photo copies of the entire orders sheet of this case and to send one copy to the Chief Secretary, Government of Bihar, for communication to all the District magistrates who in turn were required to communicate the orders to the concerned district authorities, who were commanded to comply with the orders and directions as soon as possible. It was further emphasized that encroachment from the public land, road and flanks of the road must be removed in the first instance followed by the removal of unauthorized structures wherever they are by the competent authorities. This was to be followed by cleaning up of the drainage system and sewage system. We had also directed all district Magistrate to submit a report as to the action taken by them on or before 26th August, 1996.”

On 16/10/1998, the Hon'ble High Court Ordered:-

“8. We are left no option but to issue this last warning to the district authorities and to the State Government. We hereby direct that:-

(1) Within two weeks from today all encroachment from public roads, flanks, and public lands such as parks, green zone etc. should be removed.

(9) Let a copy of this order be given to learned A.A.G., who shall communicate the same to the concerned authorities of the State of Bihar who in turn will communicate to all the District Magistrate, Superintendent of Police and other officers of the State to implement this order within two weeks from today. Except in cases where judicial orders have been passed the courts, the order shall be implemented against all other encroachments.”

8. The Bihar Municipal Act, 2007

Maintenance of pond & water body, pollution free pond, health & environment, safe disposal of sewage, garbage and medical waste, maintenance of greenery etc are highlighted under the Section 47, Section 100, Section 185, Section 198, Section 230, Section 248, Section 249, Section 258,.

9. The Other Major Legal Provisions, which have bearing on lakes/ponds/tanks and environment, are:

9.1 The National Environment Policy (NEP) 2006 recognizes the services rendered by the water bodies like lakes & wetlands.

9.2 The Environment (Protection) Act, 1986 empowers the Central Government to take measures to protect and improve environment which include water, air and land and the inter relationship which exists among and between water, air and land and human beings, other living creatures, plants, macro organism and property.

9.3 The Water (Prevention & Control of Pollution) Act, 1974 and amendments. It empowers the Government to maintain the wholesomeness of water bodies. The Act also provides for prohibition on use of streams, (includes inland water whether natural and artificial) or wells for disposal of polluting matters, etc. It enables the Government through Central and State Pollution Control Boards to prescribe the standard and has provision of monitoring & compliances and penal provisions against the violators of the Act.

9.4 The Forest (Conservation) Act, 1980, amended in 1988.

9.5 The Wildlife (Protection), Act 1972, amended in 1983, 1986 and 1991.

9.6 New Bio-diversity Bill – 2000.

In rural area, pond bund/Mahar provides space for the growth and protection of different varieties of trees, plants and shrub/bush, grasses, many of which have values of biodiversity and medicinal; and works as a shelter-belt of wild animals. Selected Mahar can be used for protection of bio-diversity. Please see photographs.

10. Our Submissions:

In the background of the Court's orders, legal provisions, deplorable & damaged conditions of ponds, signature campaign by Talab Bachao Abhiyan (TBA) during Chhatha Pooja in 2012, Talab Bachao Abhiyan's meeting on 12 Feb. 2013 and 19 March 2013, members of TBA decided to request the District magistrate of Darbhanga with the following submissions for protection, restoration and conservation of ponds:

a. Filling With Earth & Construction Works:

Many ponds in Darbhanga town and rural areas are being filled with earth. Buildings are being constructed over the pond's land and its bed, or its kachhair/ slope towards water or over the inlet & outlet of pond's water. Illegal encroachment and construction over the pond's land should be stopped.

b. Fixing Boundary of Ponds: Area of ponds should be fixed with some boundary-stone/indicators/pillar, with the help of map of CS survey to identify the encroachments as well as for preventing further encroachment of pond's land.

c. Removal & Demolition of Encroachment:

Ponds of Darbhanga town are highly prone to encroachment. Therefore, some historical ponds should be prioritised for fixing its boundary and removing encroachments, as per orders of the Hon'ble Supreme Court and High Court. Harahi, Dighi, Ganga Sagar, Mirza Khan Talab, Lal Pokhar(near Naka 5), Dighi (DK Sanskrit Universiyu), Dighi (east of polytechnic), Chhathi Pokhar(Sundarpur) and Jathiyahi Pokhar (near Poonam Cinema) should be taken for removing encroachment, in the first phase so that a message would go to the society for discouraging of encroachment pond's land. In the 2nd phase, encroachment from other pond's land should be removed.

d. Eco-Park & Eco-Tourism Centre:

In urban areas, wherever possible, Eco-Park, Eco-Tourist centre or Bio-Conservation centre should be developed. There are 6 huge ponds in Darbhanga town, which can be developed for Eco-park, provided that the illegal encroachment is removed.

e. Wild-Life Protection:In rural areas, where possible, restoration of forest on the pond bund should be done for providing natural habitation/forest-belt to local wild animals and birds. Efforts should be made to restore or make at least one or two natural habitation/forest-belt in every Gram Panchayat.

f. Refreshing of Pond's water:

Refreshing of pond-water during rainy season is essential to maintain cleanliness of the pond. Gram Sabha, Gram Panchayats and Municipal Corporation should be involved with clear responsibility for protection of ponds, for revival of its inlet & outlet and for other aspects of the ponds.

g. Sewage & Garbage:

Town, domestic, hotel and hospital sewage & garbage should not be routed to the ponds. It should be stopped as soon as possible. Municipal Corporation should prepare a phase wise plan to stop the routing of sewage and garbage to the ponds.

h. Non-Environmental Beautification of Pond:

We must avoid massive brick and RCC works in and around the pond in the name of beautification of the pond. Harahi and Laxmisagar ponds are cases for examples. We should involve environmentalist and professionals if we plan for beautification of a pond. Apart from National Lake Conservation Plan and National Wetland Conservation Plan, Chennai, Karnatka, M.P., Orisa and other states, too, have developed their guidelines for protection & renovation of lakes/ponds/water body. We can take help of these guidelines to develop a guideline for our district and Bihar for beautification of ponds.

i. Faulty Way of Renovation under MGNREGA Scheme:

Presently, renovation of ponds under MGNREGA Scheme focus only on digging out earth from the old pond. Pond has a well defined design, as mentioned above under the head of 'traditional design & structure'. It completely ignores slope of water bed, slope of pond bund, planting of trees & plants on the pond bund, revival of inlet & outlet of ponds etc. Therefore, a clear and concrete guideline and instructions should be given to the concerned department and contractors for renovation of the pond.
