



Policy Brief **1**

Encroachment of small scale water bodies: Emerging solutions for eviction



Executive Summary

A brief analysis of the existing status

Neglecting the periodical desilting of the tanks and inlet channels contributes to a gradual reduction of the storage capacity of the tanks. When the flow into tanks reaches zero level, encroachment gradually starts, first in the form of dumping garbage and later as a disposal site for wastes followed by planting of vegetables and trees, forming bunds, constructing small huts, acquiring right to use trees, attempting to get ownership rights and

finally bringing in political pressure to continue occupation while resisting eviction through prolonged legal battles in court.

Once the tank becomes dry due to choking of inlet channels by encroachment, the farmers resort to pumping ground water to meet the irrigation requirements. Due to excessive pumping and inadequate recharging structures, lowering of the ground water table gradually occurs and finally the

brief analysis...

ground water resource disappears with nil yield. It is clear that the encroachment of water bodies and their inlets creates ecological imbalance leading to flooding due to reduced capacity of tanks and rain water discharging into the sea as runoff.

Encroachment is not a new phenomenon as this has been a problem faced by different government departments. There are legal provisions in the statute books for eviction of the

encroachers to be implemented by various wings of the government. However, the eviction procedures are not handled in an integrated manner within a short time. Prolonged delays arising from legal battles in court encourage the encroachers to reap the benefits of encroachment for the maximum period possible. Implementation of the provisions of laws for eviction of encroachment in a timely manner is of utmost importance. Instead of multiple agencies, a single government unit should be empowered for eviction related works. 

DHAN's Experience in eviction of Encroachment

DHAN's experiences in the past two decades regarding solutions for the encroachment in small scale irrigation water bodies and adjoining lands have brought out the following lessons:

- Early detection of encroachments of common lands and prompt action to remove the encroachments result in compliance by the defaulters.
- Individual eviction efforts of well wishers and aggressive persons do not bring the desired result. Only when the farmers organise themselves as an Association of Tank Users, efforts taken by the association carry more weight and lead to success in eviction (Example: Goundankulam Tank in Theni District.)
- The active cooperation of government officials is an essential requirement for successful eviction. The officials' response and sincerity go a long way to remove encroachments when the Tank Users Association approaches such officials. (Example: Encroachment eviction in the supply channel to Pooseri tank, Ramanthapuram district)
- Whenever electricity supply is legally stopped to the pump sets operated in the encroached lands, eviction becomes an easier task. (Example: Vadhanur Tank, Pondicherry state.)

- The efforts of the Tank Users Association members through persuasive dialogue directly with the encroachers are often fruitful. The encroachers realise the gravity of the situation, when members of the association explain to them the ecological damage arising from such encroachment. The main reason for inadequate recharge of ground water by small-scale water bodies is the absence of water in them. This point is driven home by DHAN Foundation through the members of association to the encroachers who are blocking the inlet channels of the tanks.

Judicious Watershed Management demands 'Conjunctive Utilisation' of surface and ground water for irrigation as it results in reduced energy consumption imposed by lift irrigation and minimum flood damage during monsoon. Surface storage of run off water in lakes and ponds is a necessary step to augment surface water storage. As such, encroachment of tanks, directly results in the reduced storage capacity leading to ecological imbalance.

Tanks and ponds were created by our ancestors to harvest the rainwater locally and use it locally by proper annual maintenance of the tanks by the community itself. Abandoning this concept of maintenance by the community has contributed to the growth of encroachment.

Summary of suggested changes in policy and practice-Departmentwise.

Revenue Department

Existing policy /Practice	Policy / Practice change
As a number of government departments independently deal with encroachments, coordination between the executive officials is rather difficult/ absent	Common guidelines to be drawn for scrupulous adherence by all the stakeholders : Farming Community, Panchayat Union / Grama Sabha, Water Users' Association (WUA), Irrigation Department, Forestry Department, Fishery Department, Rural Development Department and NGOs in this sector. These guidelines can be framed in consultation with all the stakeholders and given wide publicity.
2 C p a t t a s a r e g i v e n indiscriminately. Once trees are made legal, encroachment of surrounding areas becomes easier	`2C' patta should not be given for trees in water bodies
Buildings for public purposes are built in tank bed and catchment areas by Government Departments.	Government, being the protector of water resources, should not be the violator. There must be a statutory provision prohibiting the construction of any structure in tank beds. The District Collector should give priority for encroachment related issues during the Jamapandhi meet.
Periodical visit by supervisory revenue officials is necessary. It is possible to prevent large-scale encroachment, if encroachment is detected at the earliest and immediate punitive action is taken after such inspection.	Visit to tank areas by supervising officials should be made statutory. During such visits the WUA members should be associated and encouraged to freely express their ideas to prevent as well as evict encroachments.

Public Works Department / Presently known as Water Resources Organisation

Rights to share income arising from the management of tank by Water Users Association are not defined.	WUA should be provided with the rights to share income from tanks in the ratio of 70:30 with the Government / Local Panchayat. Such a right will motivate local community to be vigilant to prevent encroachments in common lands.
In Tami Nadu Farmers Management of Irrigation System Act 2000 - section 22-3, no specific provision to remove encroachment exists	Procedures for eviction should be well defined for adoption

Rural Development Department / Panchayats

Existing policy /Practice	Policy / Practice change
Section 131 of Tamil Nadu Panchayat Act 1994 is vague with respect to process and procedure for removing the encroachment.	<p>Procedure to remove encroachment should be specifically defined as in the case of Kerala Panchayat Act/Section -5</p> <p>Similar to Tamil Nadu District Municipal Act 1920, Police Department's intervention should be available for encroachment eviction in Panchayat Act also.</p> <p>Similar to TN Highways Act 2001 Section-28, protection / eviction procedures should be clearly spelt out.</p>

Law Department

Encroachment is not declared as a criminal activity in Criminal Procedure Code. There is no 'Lok Adhalat' for administering encroachment issue.

Encroachment should be declared as a criminal activity and deterrent punishment should be spelt out. Lok Adhalats should be constituted for solving encroachment issues promptly.

There are standing orders that no part of water body or its source of water supply should be used for any other purpose. Recently the Tamilnadu High Court as well as the Supreme Court have upheld these orders and reiterated the importance of preserving the water bodies from encroachment & other users. Appropriate legal provision to comply with these orders is imperative to prevent prolonged court cases.



Policy Brief

1. Introduction

1.1 Genesis of encroachment in water bodies

Since time immemorial, Water bodies (Tanks) have been utilised as a platform to support agriculture and allied activities. Tank porambokku was used for various social purposes like weaving, goldsmith, pottery, grazing cattle and washing and drying of clothes. Social bondage that prevailed among the people prevented and regulated both intrusion and infringement of others' rights by a particular individual or group. People strongly believed in placing community welfare above individual welfare.

Breakage of social bondage, individual centric approach and economic growth as a measure for personal development have caused severe damage to healthy functioning of the society. This kind of damage along with scarcity for land gave rise to a new dimension called encroachment. Encroachment in tank porambokku follows sequential stages of growth as listed below:

- Disposal of waste
- Fencing the naturally grown young trees
- Planting of vegetable nursery
- Protecting vegetable plants
- Planting trees
- Forming bunds
- Digging manure pits
- Tying cattle with rope around the tree
- Raising huts
- Linkage with officials for support of encroachment
- Step by step addition of area under encroachment
- Acquire right to use
- Multiple usage of encroached area
- Attempt to get ownership right - stage at which encroachment takes different dimensions

- At this stage, the people will divide the encroached land among themselves at free of cost. (This will adversely affect the performance of tanks)
- Encroachment eviction stage (this will bring new type of regulations for the protection of tanks)

Encroachers of tanks will fall in any one of the above stages. There is a huge temporal difference between the first and the last stage of encroachment. Encroachment in the form of group reduces the time gap on the one hand and increases its intensity on the other.

1.2 Reasons for encroachment

The encroachment process gradually gains momentum from the following factors;

- Weakening of social bondage
- Lack of preventive methods such as periodical monitoring
- People's justification of their position by citing wrong examples
- 'If I don't use, someone else may use it', kind of mentality
- Concept of water body as a public property *per se*
- Negligence of government functionaries and lack of timely action
- Delayed realisation of the ill effects caused by encroachment
- Tank porambokku considered favorites for implementing government plans
- Setback that takes place in tank irrigation due to failure of structures caused by lack of their maintenance

Encroachment leads to both direct and indirect effects. Damage to the physical structures of tanks, their decreasing efficiency, discontinuity in water flow and reduction in the tank storage are the direct ill effects of encroachment. Ecological imbalance in the utilisation of surface and ground water is a severe direct impact. Consequential impact of encroachment is the severe damage to the functioning of tank irrigation system.

2. Effects and Problems of Encroachment

It is the people's state of mind that intensifies the effect and the problems of encroachment. Encroachment based on greed, selfishness, jealousy and compassion becomes the starting point for various other problems. Due to encroachment, the right of the community is infringed and the encroacher establishes usage rights over a period of time and gradually it becomes a sensitive and thorny issue.

Encroachments that have already taken place in the villages may be cited as examples for infringing the community rights. Such a process leads to loss of money, time and hard work of the people and more importantly destroys the unity among the village people. Age-old concept of local water management is totally destroyed by encroachment of inlet channels and ponds made by greedy and unscrupulous people.

3. Evils of Encroachment

- Reduced water flow into tanks due to choking of inlet channels.
- Reduction in irrigated area due to less water storage in tanks
- More drawal of ground water due to lack of surface water which leads to depletion of ground water resources.
- Flooding due to reduced storage capacity of tanks during heavy rainfall.
- Wastage of water draining into the sea and hence water is wasted during rainfall.
- The ecological balance of the watershed is destroyed.

- The rights of law-abiding citizens are affected by encroachers and livelihoods of tank dependent farmers is threatened.

4. Conjunctive use of ground and surface water

One of the important aspects of water management for irrigation purposes is the conjunctive utilization of surface water and ground water in suitable proportions depending upon the growth phase and water requirements of the crop and availability of water from both the sources.

Our traditional practice in the olden days is to save the rain water in ponds during monsoons and use the stored rain water partially during the monsoon and fully in summer. Water stored in the ponds would be utilized through sluices. Shallow wells were also utilized for extracting ground water through lift irrigation (animal power) using mhotes and large size buckets (Kavalai). Due to negligence of the people to desilt the tanks periodically and encroachments of inlets, the storage capacity of the tank gradually got reduced, resulting in the abandoning of the tank. This led to over utilization of the ground water resource. The end result of excess pumping is the gradual lowering of the water table year after year because of reduced recharging of the aquifer.

The following table illustrates the reduced utilisation of pond water and increased utilisation of ground water for the period from 1950 to 2000.

It is highly desirable to revive the tanks and ponds towards conjunctive utilization of surface and ground water resources. This reduces wastage of energy used for lift irrigation and avoids flooding during monsoons. Since encroachment of the tank bed is the root cause for abandoning the tank system, it is stressed that eviction action is absolutely necessary for ecological maintenance of the watershed.

Irrigation Growth in the Last Five Decades*

Source	1950-51 to 1959-60	1960-61 to 1969-70	1970-71 to 1979-80	1980-81 to 1989-90	1993-94	1997-98
Government & private canals	0.792	0.883	0.894	0.823	0.819	0.838
Tanks	0.776	0.912	0.849	0.616	0.601	0.675
Wells and tube wells	0.497	0.645	0.918	.038	1.818	1.413
Other sources	0.046	0.039	0.035	0.019	0.017	0.019
Total net irrigated area	2.116	2.479	2.696	2.496	2.619	2.945
Irrigated area as percent of net sown area	37.4	41.1	43.9	44.4	45.5	52.8

Source: Water Security Project 2004 of DHAN Foundation page 5.15 paper presented by Mr. T.S. Sridhar, I.A.S.,

5. Legal Aspects

5.1 Judiciary in Prevention and Eviction of Encroachments on Water Bodies

"It is Important to notice that the material resources of the community like forests, tanks, ponds, hillock, mountain etc., are the nature's bounty. They maintain a 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 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. Such vigil is the best protection against knavish attempts to seek allotment in non abadi sites" -Judgement of the Honourable Supreme Court Hinch Lal Tiwari V. Kamala Devi and others (AIR 2001)

"It is imperative for the State to maintain the natural resources with a view to keep the ecological balance intact and thereby provide a healthy environment to the public at large in the State of Tamil Nadu. Having regard to the precarious water situation prevailing in the major part of the year, it is imperative such noted water storage resources such as tanks, odais, Ooranies, canals, etc., are not obliterated by encroachers." - Judgment of Chief Justice Markandey Katju and Justice Kalimullah on a Public Interest Litigation against encroachment of Odai Poramboke, 2005.

The High Court Bench also took the opportunity and directed the State Government to identify all natural water resources in different parts of the State and wherever illegal encroachments are found, initiate appropriate steps in accordance with the relevant provisions of law for restoring such natural water storage resources which have been classified as such in the revenue records to its original positions so that the suffering of the people of the State due to water shortage is ameliorated.

The above judgments reiterate the role of State and particularly the Revenue Department in prevention and eviction of encroachment on water bodies and the significance of maintaining water resources.

5.2 Laws on removing Encroachment

Commonly, encroachment takes place in water bodies that vest with Revenue Department, Public Works Department (PWD) Municipality and Panchayat. The Revenue department has standing orders and hence has the sole responsibility for the removal of encroachments. The Prohibitory Order Book (PO Book) in Revenue department lists out the Poramboke lands (Tank Poramboke, Odai Poramboke, Oorani Poramboke, etc.) wherein encroachment should not be permitted. The procedure for evicting encroachment is also clearly spelt out in the Tamil Nadu Land Encroachment Act.

With regards to encroachment on water bodies in Panchayats, as per section 131 of the Tamil Nadu Panchayat Act for the lands that are owned, vested and in present use by the Panchayat, the Panchayat ought to take action to remove the encroachment. If the Panchayat fails to remove the encroachment within a period of three months, then it has to report the matter to the Revenue Authorities for initiating proceedings against the encroacher as per the Tamil Nadu Land Encroachment Act. But the act is not clear in terms of process or procedures to remove the encroachment. Since there are no processes or procedures to remove the encroachment, most of the local bodies are not able to evict encroachment on water bodies. Even if the Panchayat President gets involved in eviction, he/she does not know how to proceed since there are no clear-cut and effective rules or procedures in the Act.

In the 1920 Tamil Nadu District Municipal Act, there is a provision wherein the police dept. can be approached for evicting the encroachment, whereas similar provision is not available in Tamil Nadu Panchayat Act 1994.

Similarly as per section 22 - S under the Functions of Farmers Organisation of the Tamil Nadu Farmers Management of Irrigation Systems Act 2000, the Water Users Associations were authorised to remove the encroachments on canal, drains and tank Poramboke in the area of jurisdiction of the Water users Associations. But here again the Act has not specified the process to be followed and procedures to be adopted to remove the encroachment.

The rules should be strictly followed and adequate power should be given to the Panchayat with procedures for evicting encroachment as given in the rules issued under the Kerala Panchayat Raj Act given below.

Rule 5 Procedure for Eviction :

- (1) The Panchayat shall serve fifteen days notice to the occupant before evicting that person from the land belonging to or vested with the Panchayat. A brief description of land unauthorisedly occupied and the reason for eviction shall be specially mentioned in that notice.
- (2) The Panchayat shall examine the objection if any, received to the notice mentioned under sub rule (1). If it appears to the Panchayat that the objection is not satisfactory or the matters stated therein are unsuitable in law, a second notice shall be served to the occupant and he shall be required therein to vacate the unauthorised occupied land within one week after the receipt of the notice.
- (3) If the unauthorised occupant is not vacating even after the receipt of notice mentioned under sub rule (2), the Panchayat may evict such person and if assistance of police is required for this purpose the assistance of police may be sought under sub - section (1) of Section 352 of the Act and the Police shall provide assistance.

Section 252. Duties of police officers :

- (1) it shall be the duty of every police officer
 - (a) to communicate without delay to the President and Secretary any information which he receives of the design to commit or of the commission of any offence under this act or any rule or bye law made there under; and
 - (b) to assist the President or the Secretary or any officer of the Panchayat demanding in writing his aid for the lawful exercise of any power vesting in the President, the Secretary or in such officer or employee of the Panchayat under this act or any rule or bye law made under, or for the performance of any function entrusted to any of them.
 - (c) Any police officer who omits or refuses to perform any duty imposed on him by this Act shall be deemed to have committed an offence under section 41 of the Kerala Police Act 1960 (5 of 1961).

Also in Tamil Nadu Highways Act 2001, Section 28 deals with restoration of encroached land and

Section 29 with Recovery of cost of removal of encroachment. The procedures for prevention as well as eviction of encroachment are spelt out very clearly in the Act.

Section 28

- (1) The highways authority or any person authorised by it in this behalf shall at such time as may be considered necessary, conduct such checks and periodical inspection of the highway boundaries, with the view to ensure the prevention of unauthorised encroachment and the removal of such encroachment.
- (2) The Highways authority or any person authorised by it in this behalf may
 - (i) remove, without any notice any movable temporary structure, enclosure, stall booth, any article whatsoever hawked, exposed or displayed for sale or any other thing whatsoever by way of encroaching the highway or in any area where the construction or development of a highway is undertaken or proposed to be undertaken.
 - (ii) remove any movable structure, whether permanent or temporary in nature, encroaching the highway or in the area vested with Government under this act, after issuing a show cause notice against such removal, returnable within a period of seven days from the date of receipt thereof provided that any representation received within the time limit shall be considered by the authority or officer concerned before passing final orders.

Even though the Revenue department has standing instructions to prevent and evict encroachments, encroachments do take place in many water bodies where the department has failed to check or evict the encroachment. The very fact that most of the evictions are initiated only after filing a PIL indicates the lethargic attitude of the officials and the not so clear procedures mentioned in the relevant Acts. If proper procedures were issued and followed by the relevant authorities then even the court cannot interfere. Many a time the Govt. loses the case due to non implementation of rules and non observation of procedures by the relevant Govt. authorities. Also proper follow-up action has not been taken by the govt. authorities. The practice of effectively monitoring the suit register at the Collectorate and Tahsildar's office to take action in the suits filed in the court is not in vogue in many districts.

6. Success stories of Encroachment Eviction

DHAN Foundation is currently involved in rehabilitation of tanks in three states viz., Tamil Nadu, Karnataka, Andhra Pradesh and Union Territory of Pondicherry. The total numbers of tanks rehabilitated are 670 in these States. DHAN Foundation has initiated community action

in more than 100 tanks when encroachment problems are encountered while executing tank renovation with people support. DHAN's experience in the removal of encroachment with people support is narrated below.

RAMNAD DISTRICT

Theriruvveli (Mudukulathur Block)

Encroachment area and nature	Methodology adopted and present status
<ol style="list-style-type: none"> 1. 1 km. length inlet channel to the tank 2. 2 km. on the tank bund of the total 3 km. 3. 60 acres in catchment areas 4. Sullage effluent is let into tanks 5. Pumping of ground water from tankbed 6. Breaking the bund during rainy season to avoid flooding of crops sown in tank bed 	<p>In 1997, DHAN formed Theriruvveli Farmers' Association uniting the affected farmers.</p> <p>DHAN's guidance to the association started with persuasive attempts to remove encroachments through a series of meetings held under the auspices of Grama sabha, community meetings, village public meetings etc. The members of the association met Revenue Officials, Executive Engineer & Superintending Engineer and explained the difficulties arising from encroachments.</p> <p>Association's attempt through 'Road Roko' type of agitation resulted in some positive action. Through persuasive dialogues, smaller encroachments were removed. Now attempts are on to deal with the influential bigger encroachers. Association formation helped in speeding up the matters.</p>

Meenangudi (Kadaladi Block)

<p>Out of 222 acres of water spread area 50 acres are encroached.</p>	<p>Under pressure from the local farmers, land survey was undertaken to demarcate the encroached areas. Encroachers prevented land survey and a police case was filed. Still the cases are pending in court. 12 years of attempts involving money and labour have not yielded full success. Out of seventeen encroachers, only four could be evicted. The root cause in this village is the official apathy. It will take more time to remove the remaining encroachments due to slow legal procedures.</p>
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Pooseri (Mudukulathur Block) Tank

Supply channels are choked due to encroachments

In 1997, DHAN with the help of the Public Works Department, formed Tank Users Association. The Grama sabha ably helped by the Tank Users Association started removing the encroachments applying social pressure. Under Oorani Rehabilitation Scheme with funds from government and labour from local members, DHAN successfully executed the drinking water scheme. Land records department officials were persuaded to resurvey the areas to pinpoint encroachment and this helped the local public to remove the encroachments with continuous social pressure.

The Sub Collector's stern directives, Land Records Department's quick action and social pressure applied through Tank Users Association and grama sabha helped in the removal of encroachments.

MADURAI DISTRICT

Vellinipatti village, Pirandodi supply channel (Kottampatti block)

Encroachment area and nature

30 years of neglect choked the channels with weeds. Encroachment along the channel stopped the water supply to 48 tanks

Methodology adopted and present status

The visit of the district collector to the rehabilitated tank executed by DHAN with community participation necessitated his passage through the Pirandodi supply channel. Local farmers met the collector and explained the poor status of the supply channel and pleaded for his intervention. The collector was surprised to see the extent of encroachment and immediately ordered resurvey of the area through R.D.O.

A swarm of officials from various departments finished the survey in a record period of 10 days. Tank Users' Association was formed and the association donated Rs 0.75 lakhs for rehabilitation of the tank and Government provided Rs 2.25 lakhs. All encroachments were removed and the lands are fertile now. The stern action of the Collector solved the encroachment problem when represented through the Tank Users' Association.

Kumarasamuthiram (Kottampatti block)

Ayacut is 30 acres. Three acres were encroached by four persons. They were preventing the water supply, cutting the bunds and opening the sluices to protect their lands from submergence during the rainy season.

Ayacutdhars united themselves and contributed money to make representation to Government. The first attempt failed. Again they contributed money and took their case to revenue officials, Tashildar, VAOs etc., DHAN helped in the registration of Tank Users' Association and with the guidance of DHAN and help from Government Departments, all the encroachments were removed.

THENI DISTRICT

Athigarikulam (Andipatti block)

Six kilometer length inlet channel gradually encroached by eight influential farmers. Migration of local people to other districts happened due to non availability of water for irrigation.

Local affected farmers organised themselves into an Ayacutdhar Association. A local public spirited person Mr. Paramasiva Gounder continuously represented the case to Government over a period of 25 years. After Theni district formation, the matter was taken up with the District Collector and local MLA. In 1997, desilting was done by the community with Government assistance. Twenty-five years of persistent efforts yielded fruit because of the dynamism of the Collector.

Goundankulam (Bodi block)

Water spread is 13 acres. Due to encroachment by eight persons the tank completely disappeared. Pumping of ground water with electricity supply by EB deteriorated the situation. Ground water level fell below 100 feet. The tank was defunct.

Mr. Marimuthu Gounder devoted his entire life to remove the encroachment. He preserved all the revenue maps and connected records. With DHAN's assistance, an association was formed and donations were collected from the community to the extent of Rs 22,000/-. District Collector sanctioned Rs 88,000/-. District Collector ordered the removal of crops raised by encroachers. The pressure from the association by arranging tractors for removal of crops at their expense hastened the eviction. The timely official help was crucial in removing the encroachment. The preservation of all revenue maps and documents by Mr. Marimuthu Gounder helped very much in the efforts of the community for removing encroachment.

Karuvelankulam, Palarpatti village (Bodi block)

This is a PWD tank under encroachment for 40 years. Very difficult to identify the tank as the extent of encroachment is total

The encroachers are close relatives of the affected ayacutdhars. All of them belong to the same community. The users formed an association and collected Rs 50,000/- through their voluntary efforts and approached the Collector.

The Collector sanctioned the desilting work within a week. Resurvey of the area helped in the identification of encroachment area. Stern action by district officials helped in the total eviction in spite of the stiff and illegal resistance of the encroachers.

Velankulam (Periyakulam block)

This is a PWD tank fully encroached by raising trees.

A private individual Mr. K. Paramasivam took up the matter with the Government. The problem was viewed as a communal problem as the encroachers belonged to schedule caste. Still Mr. Paramasivam obtained the cooperation of other farmers and raised Rs 50,000/- and with the help of Government, all encroachments were removed. Now this tank is maintained by the farmers themselves.

Aranmanaikulam (Andipatti block) Tank

Because of encroachment in the inlet channel, the rainwater flowed through private patta lands and caused flooding in the nearby houses. People cut open the bunds to allow the floodwater to flow downstream. Agriculture was totally affected.

Water User's Association members vehemently fought for their rights continuously. The members went to the Collector and pleaded their case strongly. The Collector immediately ordered resurvey. The encroachers threatened to behead the association members. In spite of the grave threats, the association stood firm and widened the inlet channel to fill the tank by removing all the encroachments.

After the desilting the encroachers were also benefited by the filling of the tank and they are now praising the association members, as they are able to raise paddy crop after the tank is restored to its original capacity.

PONDICHERRY STATE

Vadhanur

Ayacut is 338 acres. 200 acres encroached for 50 years. Farmers switched over to pumping ground water using 14 pump sets. Ground water level went down to an extent of 600 feet. Sea water intrusion has started.

Encroachment started in the year 1945. In 1978 bore wells came up with electricity connection. In 1985 on private complaints to EB, power supply was cut in 50 acres. Most of the encroachers are government employees and this gave rise to official apathy. In 1998, an association was formed. The association put Rs.3.8 lakhs for cleaning the prime inlet channel. In 2000, Vadhanur eri association was formed. As the root cause was power supply by EB to bore wells, representations were made to EB to cut power supply. The stern action of EB in cutting power supply solved the problem and encroachers were forced to move out of the tanks. The District Collector provided necessary support to the Association.

Keelparikalpattu

Total encroachment by a single individual

PWD and police departments gave good support to the local farmers for removing the encroachments. The tank got filled even with meagre rainfall. Farmers are happy.

Kariamanickam tank (Nettapakkam)

This is a rainfed tank. Encroachment of the inlet channels made the tank to go dry.

Local farmers successfully persuaded the encroachers to clear the inlet channel. The citizens deserve all the praise for successful negotiation.

Kordukadu (Ariyankuppam)

250 acres encroached.

A lone public-spirited individual with the help of PWD and police department fought successfully and removed the encroachments. In all the cases local people acted as one solid unit for evicting the encroachers.

7. Policy Seminars on Community Based Water Resources Management

Realising the importance of small water bodies, DHAN Foundation organised a series of Policy Seminars on the issues related to Community Based Integrated Water Resources Development and Management. The seminars provided a platform for all the stakeholders : Farmers, Government Officials, Academicians, Research Scholars and Eminent Scientists of Development Organisations - involved in water resources management to raise, share, discuss and present the issues involved in developing and managing the water resources. One such seminar titled “Alternate Solutions to Tank Encroachments : Experiences of DHAN Foundation” focused mainly on the issues related to encroachment of water bodies, their inlets and catchments, so as to arrive at a possible solution to the problem of encroachment. The seminar mainly focused on small-scale water bodies under the control of Panchayat based on the grass root level experience of DHAN Foundation with the community, Encroachments and allied problems of eviction were shared with the participants.

It was emphasised that the prevention of encroachment should be considered as a priority over the removal of encroachment. The seminar concentrated on four major areas for effective implementation of encroachment eviction.

7.1 Empowerment of people

People should be empowered to evict the encroachers as this is the primary requirement for dealing the cases of encroachment. Documents and guidelines should be made available to the people and Panchayats so as to enable them to contribute their role in the management of water bodies. Empowerment of people includes the following recommendations:

- To create awareness about the evils of encroachment in the water management sector, Water Users Association should be formed
- People should be encouraged to have tactical dialogue with the encroachers themselves and invite them to become members of the Water Users Association.
- Local people should encourage the concerned officials in charge of encroachments to come forward to deal with the encroachment problem.

- Ayacutdhars should know the rights so as to enjoy the usufructs of the tank and the adjoining lands.
- A number of Water Users Associations may join together in the respective sectors to fight against the encroachments.
- Workshops may be conducted on the theme of encroachment inviting the officials so as to bring to their knowledge, the seriousness of encroachment and discuss ways for removal of encroachment.
- The Panchayat should empower Water Users Associations for the removal of encroachments
- Ten to fifteen Water Users Association may form 'Water Panchayat' for a zone for the development of water resources and such a Panchayat should be empowered to deal with encroachment problems.

7.2 Evolving guidelines

Encroachment is a social evil and as such awareness should be created to protect the water bodies from encroachment. Operational guidelines should be evolved for all Govt. departments and community organisations concerned.

As water resources are fundamental for any civilisation, they should be protected by all means. Encroachment should be considered as a violation of the 'Human rights'. Water bodies should be declared as common property and their protection should be the responsibility of every citizen.

The sectoral viewpoints of Society, Government, Panchayat and Political groups are given below:

7.2.1 Society

- Water bodies and associated land should be declared as people's common property
- The encroachers are the enemies of the society and should be considered as anti-social and liable for prosecution
- Helping the encroachers also should be considered as an illegal act against the society.
- It is the duty of every citizen to protect the water bodies

7. Policy Seminars on...

7.2.2 Govt. Department officials

- Officials should not use their power to protect the encroachers
- Govt. departments themselves should not commit encroachment
- Continuous supervision of the water bodies and their environment is essential to prevent the encroachment
- Encroachment should not be considered as a law-and-order problem but its removal should be considered as an opportunity to protect the water bodies.
- Irrespective of the area encroached within the water body and its environment including catchments, action should be taken as per legal provision in a timely manner.

7.2.3 Panchayat

Grama Sabha should consider 'protection of water bodies' as an essential agenda item so as to create an 'encroachment free' environment.

7.2.4 Politics

Encroachment eviction should be considered as a public welfare activity and as such should be beyond the purview of 'politics'

7.3 Co-Operative efforts

The role, rights and responsibilities of the Govt. department and those of the people should be integrated so as to enable removal of encroachments as a joint effort.

1. Co-operative effort taken by the community as a whole is the best method to remove encroachments. Grama Sabha, Self Help Groups like 'Vayalagam' and other co-operative bodies should take steps for unifying the forces against the encroachment.
2. If the Grama Sabhas and other co-operative bodies operating at village level are unable to find a solution, apex bodies operating at district level and State level may be approached.
3. Kudimaramathu (traditional system of community maintenance) method, if revived, no encroachment would be possible. Internal resources developed by the local community can be best utilised for the management of water resources after paying a portion of the same to Govt.

7.4 Legal and other administrative reforms

Taking into account the provision of developmental environment, necessary changes should be made in the policies, laws and Govt. orders so as to protect the water bodies from encroachment. The following recommendations emerged from the deliberations of the policy seminar.

8. Lessons learnt from field experiences

- The urge to remove the encroachment should come from the affected peoples.
- Eviction should not arise from individual hatred and enmity
- Impartial and unbiased leadership of the group spearheading the eviction is imperative
- Local dialogue within the village without encompassing the outsiders was helpful.
- Encroachment should not be clubbed with other local issues
- Encroachment should not be associated with communal, political and ego problems of individuals
- Collective and continuous efforts through an association will bring success
- Solution should not be left to govt. officials only
- Officials of high integrity are important for successful eviction
- Encroachers will adopt all coercive methods to retain their stronghold and will go to any length to keep their encroached lands to themselves.

9. Recommendations & Way forward

1. Proper guidelines should be prepared for adoption by various government departments at various levels to remove encroachments. The rights and responsibilities of the Water Users' Association (WUA), Gram Panchayats, Panchayat Unions and Government Departments should be clearly defined and awareness programmes on the same should be initiated.
2. Empowerment of the people is a basic necessity since they are the principal stakeholders benefiting from the utilisation of water in the tanks for irrigation requirements. The WUA should be provided with the rights to share the income arising from the management of the tanks with the panchayats in the ratio of 70:30.
3. Encroachment should be considered as criminal activity and as such punishment should be deterrent.
4. Issue of 2C patta should be totally stopped as this provision leads to encroachment.
5. Periodical visits of enforcement officials of Revenue Department should be able to reduce encroachments in the initial stage itself.
6. Government Departments should be directed not to encroach the defunct tanks as they should be the guardians of the water bodies.
7. Legal loopholes existing in the present statutes should be plugged as they are conveniently used by the advocates of the encroachers to continue occupation of the lands, which were, originally tanks supporting irrigation.
8. Encroachment should not be viewed from caste and personal rivalry angles.
9. Awareness campaign should be undertaken to educate the stakeholders regarding the ecological damage caused by encroachment. The campaign should include conjunctive use of surface and ground water and efficient management of water by adopting suitable crops.
10. Lok Adhalats should be constituted settling for legal disputes arising from encroachment.
11. Jamabandhi conducted by the District Collector should devote specific time for dealing with encroachment problems and devise suitable mechanism for faster execution of his directives.

Way forward

DHAN Foundation should take up the recommendation of the Policy Seminar to the Government, primarily through the Revenue Department for handling efficiently the encroachment and prevention issues.

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Why this Policy Brief?

DHAN Foundation is involved in Natural Resources Management focusing mainly on Community based Development and Management of Water Resources in South India. The initiatives taken so far have reached several villages through rejuvenating water bodies benefiting thousands of families. By working closely with the community, DHAN has gained valuable experience over the past two decades. DHAN believes that for better management of water resources, certain changes in the present policies and practices are needed. Hence it has now been decided to come out with Policy Briefs to disseminate the changes needed in specific sectoral issues. This will facilitate Administrators and Field level Organisations in their attempts of better management of scarce water resources.

Policy Brief 1 focuses on the issues related to encroachment of small water bodies, the policy and practice change that are envisaged to protect the water bodies from present and future encroachments. The brief is planned for focusing the attention of the Secretaries to Govt. in Revenue Department, Public Works Department, Rural Development Department, Survey and Land Records, Senior Executives of Highways Department, Railways and Electricity Boards of the Central and State Governments, Fisheries, Forest and Law Departments of Tamil Nadu. Voluntary Organisations, Water Resource Associations and panchayat level administrators are also our target groups.

About DHAN Foundation

DHAN Foundation is a grassroots development organisation and was initiated with the objective of bringing highly motivated and qualified young professionals to the development sector for new innovations in development programmes and for up scaling development interventions to eradicate poverty. The Foundation works towards bringing significant changes in the livelihood of the poor through innovation in themes and institutions.

The approach of the Foundation is to promote people's organisation and their networks aiming at improving the livelihoods of poor communities by organising development works around themes. These people's organisations would sustain themselves and excel in long run. Presently DHAN Foundation is working on the themes namely Community banking, Conservation of tanks, Information and communication technology for poor, Rainfed farming development and Working with Panchayats.

About the Centre for Policy and Planning

The Centre for Policy and Planning of DHAN Foundation provides support to the programmes and institutions of the DHAN Collective so that they evolve, develop and modify their policies and fulfill their aims. It shapes the sectoral policies from practice at the grassroots. DHAN Foundation as a member of many policy-making bodies on Microfinance and Water Conservation strongly advocates pro-poor policies. The Centre takes up policy study and initiating research on Microfinance, Water Conservation, Rainfed farming, Panchayat Raj institutions and Disaster mitigation. As a resource centre, it organises many capacity building events and training programmes for bankers, government officials and representatives of NGOs within and outside the country.



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