



There is one central lesson that can be gauged from the National Waterways Act 2016. It is that the people who have been traditionally using and sustaining the river waters and especially for their livelihoods, will have limited or no access to the rivers and maybe even the river banks. The National Waterways Act, 2016, became law on 25<sup>th</sup> March, 2016, and came into force from 11<sup>th</sup> April, 2016. The inclusion of six riverine stretches of Goa in the Schedule to the National Waterways Act, 2016, is threatening the very existence of Goa, where livelihoods have revolved around the rivers and the coasts, even when population groups do not live in the immediate vicinity of these water bodies.

#### River stretches declared as National Waterways

The six river stretches, scheduled as under the jurisdiction of the National Waterways Act, 2016, are (1) National Waterway 25: Chapora River, from Bridge at State Highway No. 124 (1 Km from Maneri village) upto the confluence of Chapora river with the Arabian Sea at Morjim, (2) National Waterway 27: Cumbarjua River, from confluence of the Cumbarjua and Zuari rivers near Cortalim ferry terminal upto the confluence of the Cumbarjua and Mandovi rivers near Sao Matias Vidhan Parishad, (3) National Waterway 68: Mandovi River, from the bridge at Usgao upto the confluence of Mandovi river with the Arabian Sea at Reis Magos, (4) National Waterway 71: Mapusa/Moira river, from the bridge on National Highway - 17 at Mapusa to the confluence point of Mapusa and Mandovi rivers at Porvorim, (5) National Waterway 88: Sal river, from the Orlim/Deussua Bridge to the confluence with the Arabian Sea at Mobor, (6) National Waterway 111: Zuari river, from the Sanvordem Bridge upto the Mormugao Port.

#### Areas threatened

The locales, villages and towns where the livelihoods of people are threatened are vast. These locales include Aldona, Alorna, Amona, Assagao, Benaullim, Calvim, Candolim, Carmona, Cavelossim, Chinchinim, Choraol, Colvale, Cuncolim, Cupa, Divar, Ibrahimpur, Khandola, Kudnem, Mapusa, Morjim Orlim, Oxel Siolim, Panjim, Parsem, Pilerne, Pilgao, Reis Magos, Quittol, Sao Jose de Areal, Savoi Verem, Siolim, Surla, Usgao, Vasco, Vagator, Vanxim and Varca. It needs to be emphasized that this list is by no means exhaustive, but only indicative.

Already the All Goa Fishermen's Union has said that 45 inland fishing villages will be destroyed on account of the nature of waterways proposed. Let us see why there is an impending ecological destruction and threat to the livelihoods of people. Water Water Everywhere, But...

## The National Waterways Act, 2016

The preamble of the law indicates that the law has been primarily enacted to provide for the declaration of certain inland waterways to be national waterways and also to provide for the regulation and development of the said waterways for the purpose of shipping and navigation. The legislation was drafted in the wake of demand for increased transportation of coal and ore, through the cheapest means.

But it is not even cheap considering all the infrastructure expense it entails, and the costs of which are finally to be borne by people through various taxes.

It is not as if the navigation of waterways is an unknown concept in Goa. After all, Goans have been navigating rivers for centuries and even with the entry of motorized ferries which ply from point to point across different rivers, they have never been a source of worry. What has been of concern is the adverse consequence of barges transporting ore on Goa's ecosystem including its mangroves. These are known to have destroyed the mangroves in some areas. In addition, the wake left by the constant plying of these barges has considerably weakened and damaged the dykes along the tidal influenced segments of these rivers. Given that much of the Old Conquests lies beneath sea level and are reclaimed land, the breach of these dykes would be catastrophic and along with the damage to the mangroves threatens the safety of the peoples along the rivers.

Furthermore, given the expected volume of increase in transport on account of the move to make Goa a coal hub and to redevelop some of the berths at Mormugao Port, the rivers are expected to be navigable not just for the ferries but for the massive vehicles which are meant to transport the ore. Apart from the threat of pollution this poses, it also means that the rivers have to be substantially dredged. Taking into consideration that there is the initial dredging and then there is the annual maintenance dredging, one can envisage substantial impacts. The dredging and the silt and debris that would be generated, in turn would affect

Goa's fish resources both riverine as well as marine to the point that it cannot be recolonized. It would also impact on river paddy cultivation. The right to food of people in Goa, for whom fish is their staple diet, is also at stake here. Water Water Everywhere, But...

## Powers to the Inland Waterways Authority of India

An earlier incarnation of the Inland Waterways Authority of India (IWAI) granted the authority powers over just a few waterways that were declared as waterways each time. But this time around, this new law has actually set out the purpose of the declaration of the waterways as national waterways and has listed 111 waterways in India which have been so declared, in the law itself.

Moreover, the waterways do not exist in isolation. There is a whole infrastructure which goes with it such as docks, wharves, jetties, landing stages, locks, buoys, inland ports, cargo handling equipment, road and rail access and cargo storage spaces. This will automatically ensure a round of land acquisition and the grant of power to the Inland Waterways Authority of India to acquire land for this purpose, which is deemed to be public purpose under the law.

Also, the IWAI has the power to act on 'business principles' in the discharge of its functions. These business principles are not clearly defined anywhere. However, that the term seems to suggest is that despite the fact that public interest may require for the authority to renege on their contract with any private party, they cannot retreat. The logic being that business principles require that the investors must have, as the Government is never tired of saying, the 'right' signals.

Furthermore, the IWAI has the power to make rules to exclude, from a national waterway, disorderly or other undesirable persons and trespassers. Considering that there is no inventory carried out of who are the traditional users of the land, who will be termed as trespassers? If trends with tourism in Goa are anything to go by, it will be the very people who have been the traditional users. There is also absolutely no guide for interpreting the words disorderly or undesirable persons. Criminal law already has provisions to deal with disorderliness and undesirable persons and we do not need an Inland Waterways Authority to be superimposed on this criminal law, as was the move when it came to Special Economic | 3

Zones, where in these areas, another authority altogether was envisaged to maintain law and



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## Facilitating Maximisation of Investors' Profits

The Government's Sagarmala Report indicates a grand plan to facilitate export trade, where it is necessary to have cheap waterway transportation to make it competitive for investors to maximize their profits through trade. This is particularly so where the port and the manufacturing locale are at a distance from each other, or alternatively where the source of the ore and the port or the manufacturing locale are at a distance. One cannot forget that India is a party to the negotiation of a Regional Comprehensive Economic Partnership, a mega trade agreement among totally 16 other countries and the way it is being discussed, any impact on the maximization of the investors profits, is subject to a challenge before an Investor Dispute Redressal Mechanism which is an expensive litigatory procedure, irrespective of who wins or loses, and which India can ill afford.

In all this, there isn't a whisper about what this could mean for the local people and for those who are dependent on the rivers for their livelihoods. During the discussions in Parliament, when the Bill was up for discussion, it was asked whether an environment impact study has been carried out and whether the rivers listed were all fit for navigation. The Standing Committee Report in its 223<sup>rd</sup> Report had considered these concerns and had suggested only those stretches of waterway where necessary technoeconomic feasibility studies have been conducted and found feasible need be declared as national waterways. But this suggestion of the Standing Committee appears not to have been considered in so far as the final legislation is concerned and the Bill was passed with the understanding, it seems that after the enactment of the law, these studies would be carried out. What the members of Parliament appear to have not seen is the fine print that the techno economic feasibility studies would only be conducted for the purposes of prioritization based on budget estimates. The socio economic and cultural implications have been completely bypassed.

## Mockery by Nitin Gadkari

The aggressiveness of pushing Goa into accepting six of its river stretches as National Waterways came to a head when Mr. Nitin Gadkari, the Union Minister for Shipping and

Transport, derided the Captain of Ports saying forty crores have been sanctioned for the dredging in Mandovi and Zuari rivers and the same is unavailed of for a year and a half because the Captain of Ports, the department in Goa that is concerned with shipping and navigation, has not permitted the same. This propelled a discussion in the Assembly following a question and a resolution moved by Opposition members. Predictably, Goa Forward's Vijai Sardesai, who as member of the Opposition had vehemently opposed the declaration of Goa's river stretches as national waterways in the Legislative Assembly, and had even made his opposition to nationalization of rivers an election plank, as so many videos posted on social media will testify, has negotiated yet another U turn and was seen arguing otherwise.

Gadkari's mockery did not stop there. He termed the opposition as the opposition of a miniscule few and wondered whether people thought he will carry the rivers with him to Delhi. Needless to say, this angered Goans, who have been seeing Delhi as figurative of the decision making for destructive development with the active abetment of the Goa Government, a kind of new colonizer.

### Committees and the Inputs

The Inland Waterways Authority of India had actively but surreptitiously engaged with who they called stake-holders, that is the corporates, but the local people and more particularly those who had been responsible for the formation and management of the rivers were never consulted. The Goa Government, like every other State Government was consulted, possibly also because 'irrigation and canals', on which there will be an impact due to declaration of the waterways as national waterways, is a State subject, under Entry 17 of the State List in the Seventh Schedule. However the BJP-led Goa Government betrayed the people and informed the Parliamentary Standing Committee constituted to look into the National Waterways Bill, that it had studied the matter and blankly conveyed their acceptance of the proposed law. This flies in the face of Chief Minister Manohar Parrikar's contention in the Goa Legislative Assembly, in its monsoon session this year, that the National Waterways Act, 2016, is an act of Parliament. It is no doubt an act of Parliament but the States had the opportunity to give their say.

As a matter of fact Kerala did give its say to the very same Parliamentary Standing Committee. It objected to declaration of 10 river stretches as national waterways. They

contended, for instance, that dredging the river bed for providing draft would be disastrous to the ecology of the river system, especially in ecologically fragile reaches in the upstream of the river. They pointed out that sand mining and lowering of river bed has already created adverse effects on most of the river systems in the State. They further drew attention to the fact that fish breeding will also be affected, depriving fishermen of the normal catch. This is in such a sharp contrast with the meek submissive position of the Goa Government.

### Confusion with interchange of words

Considerable confusion is caused due to the interchanged use of the word nationalization, for what is actually a brazen act of appropriation of the rivers for the use of transportation of mainly coal. Way back, some of Goa's bus routes were nationalized which meant that only the State's Kadamba Transport Corporation owned Goa buses could ply on those routes.

However, this declaration of six river stretches is not nationalization by any measure. It is about enabling the Inland Waterways Authority of India to take charge of the rivers for regulating and developing these waterways. This, as earlier stated, means dredging the river to enable massive vessels for transporting huge mega consignments of coal, for instance, to navigate through those waters.

### Mounting Opposition

Goa has eleven rivers of which seven rivers are major rivers. Out of these if six major stretches are declared as national waterways the implications are unimaginable for the local populations. Expectedly therefore, there is mounting opposition. The General Secretary of the All Goa Fishermen Union General Secretary, Olencio Simoes, nephew of the late Matanhy Saldanha, has contended that declaration of the six stretches of rivers as national waterways is likely to cause further destruction of Goa as almost a 410-km long stretch will be dredged to bring in bigger size vessels for larger cargo. He has also further contended annual dredging will be carried out to maintain the channel, which will occupy at least 280m out of 500-800m of rivers. Citizens' groups, including a new formation Our Rivers Our Rights, specifically formed to counter this Declaration, and *Niz Goemkar* have addressed press conferences and are seized with the matter.

Our Rivers Our Rights' is a new citizens' formation comprising of local people from all walks of life and from different parts of Goa has expressed grave concern about the plans to change rivers of Goa to national waterways of India. "Goa has been developed and shaped by the knowledge and hard work of our indigenous communities, who have laboured for centuries to create rivers, khazans, paddy fields, lakes and bunds out of the sea and backwaters. Our rivers are the inalienable properties of our village communities and continue to sustain lakhs of Goans even today. *Fut'tani, pagels, ogors, manxio, kobule, lambaris*, etc are used extensively by thousands of river side fisher folk people to sustain Goan economy and culture. An even larger number of Goans are dependent on the paddy fields along the sides of our rivers for their survival and sustenance. These rivers are not only the lifeline of Goan communities, but are also completely owned, managed and protected by local communities", it has contended and has called for the removal of the six river stretches in Goa from the schedule to the National Waterways Act. It has also further remarked that all the steps taken by the Union and State Governments to secretly usurp the rights of the local residents and acquire our rivers are unconstitutional and illegal.

All the organisations have unequivocally stated that the Governments must first inform and consult the local communities, as required by the law and public interest, before it takes any steps to change the status quo with regard to Goa's rivers.

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