



**FORGET RAMSAR!**

**FORGIVE US *LOKTAK EMA!***

**A CRITIQUE OF THE MANIPUR LOKTAK LAKE  
(PROTECTION) ACT OF 2006:  
A RAMSAR CONVENTION VIEWPOINT**



Centre for Organisation Research  
& Education  
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# “FORGET RAMSAR, FORGIVE US *LOKTAK EMA*”

## A CRITIQUE OF THE MANIPUR LOKTAK LAKE (PROTECTION) ACT OF 2006: A RAMSAR CONVENTION VIEWPOINT

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*(Indigenous Peoples' Centre for Policy and Human Rights in India's Eastern Himalayan Territories)*

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**The opinions expressed in this document are not those of the Centre for Organisation Research & Education (CORE), and the authors take sole responsibility for them.**

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## INTRODUCTION

This critique has been prepared in accordance with resolutions passed at a public meeting held on 18<sup>th</sup> December, 2010 at the sacred site of the ancestral deity *Emā Loktak Lairembi*, Haoréng Chingjāng on the Thāngə Island of the Loktak Lake, a wetland of international importance designated as a Ramsar site on 23<sup>rd</sup> March, 1990. The meeting was organised by the Loktak People's Forum.

The site was entered in the Montreux Record on 26<sup>th</sup> June, 1993. The Montreux Record is “a record of Ramsar sites where changes in ecological character have occurred, are occurring or are likely to occur” maintained by the Secretariat in consultation with the Contracting Party concerned (Recommendation 4.8, 4<sup>th</sup> COP, Montreux, Switzerland). The record presently has 48 sites listed.

Despite the attempts of the government of Manipur, which set up a Loktak Development Authority (LDA) in 1987, primarily an engineering body, to undertake participatory processes, research and conservation activities, the Loktak continue to be in the Montreux Record. The Wetlands International – South Asia (WISA), in cooperation with LDA, undertook a study intervention “Sustainable Development & Water Resources Management of Loktak Lake (SDWRML)” from 1998-2004.

According to a case study entitled “Integrated Wetland and River Basin Management – a case study of Loktak Lake” by WISA, the “*Loktak Lake is the largest wetland in the North-Eastern region of India and has been referred as the lifeline of the people of Manipur due to its importance in the socioeconomic and cultural life. It plays an important role in the ecological and economic security of the region. The Lake has been the source of water for generation of hydroelectric power, irrigation and water supply. A large population living around the lake depends upon the lake resources for their sustenance.*

“*The staple food of Manipur is directly linked to Loktak Lake. The lake is rich in biodiversity and has been designated as a wetland of international importance under Ramsar Convention in 1990. The Keibul Lamjao National Park, in the southern part of the lake, is home to the endangered Manipur Brow Antlered Deer, locally called Sangai. The lake has been also the breeding ground of a number of riverine fishes and continues to be a vital fisheries resource. It supports a significant population of migratory and resident waterfowl.*”

The LDA was re-constituted under an Act of the Manipur Legislature in 2006, the Manipur Loktak Lake (Protection) Act of 2006, which de-notified the existing LDA. The Act, which has precipitated a crisis on the endangered Ramsar site and the lives of local indigenous fisher communities, is resisted by the local indigenous Meetei communities who live in and around the lake. It has become necessary to understand fully the reasons why the local communities oppose this legislation.

Recently, from 15 – 25 November, 2011, the newly constituted LDA along with the Manipur Police and aided by the Indian Army and paramilitary forces stationed in and around the lake committed an atrocity which stunned the entire State of Manipur. The Authority burnt down inhabited huts which have traditionally been built on floating masses of vegetation known as *phumdi* by the local indigenous Meetei community whose only

livelihood is fishing and gathering aquatic vegetables to be sold in the markets of Manipur. From ancient times, officially sanctioned arson is a rare form of severe punishment undertaken as traditional dispensation of justice in the most exceptional circumstances for heinous crimes against the people. Family members inhabiting these huts were forced to torch their own homes and tortured by the police. Evicted homeless families belonging to over a thousand huts were forced to live like animals without any shelter. The cruel irony of the atrocity is that the Government of Manipur, spearheaded by the Tourism Department was conducting the international tourism festival (*Sangai Festival*, 21-30 November 2011) in Manipur during this same period, in which the *phumdi* dwellings on the lake were promoted as a tourist attraction.<sup>1</sup>

The Act has transformed the LDA from an institutional friend and guide of the local people of the Loktak into a monstrous authoritarian state agency, which views the indigenous people on the Loktak as encroachers illegally occupying state lands and enemies of the state. Past lessons learnt by the activities of the de-notified LDA in the management and conservation of the lake and its catchment areas in the Manipur River Basin, have been brazenly negated by the Act and its newly constituted Authority.

The critique takes a close look at the Manipur Loktak (Protection) Act of 2006 from the perspective of the Convention on Wetlands of International Importance, especially as Waterfowl Habitat (Ramsar Convention) and its standards and guidelines, particularly the guidelines pertaining to indigenous peoples, participation and cultural values relating to the management of wetlands. India is a Contracting Party to the Convention, and the treaty came into force in the country on 1<sup>st</sup> February 1982. The critique also takes into consideration some domestic legal provisions that the Act contravenes.

The Loktak Lake, today, is in an even more perilous situation than it was in 1993 at its entry in the Montreux Record. The Government of India must exert a sincere and committed effort to ensure that an appropriate and effective legislative and policy environment is urgently created in Manipur, with due diligence, as a High Contracting Party to the Ramsar Convention. An expert and impartial urgent fact-finding mission has become a necessity. The Government of India should without delay request a Ramsar Advisory Mission (under the Ramsar Convention Monitoring Procedure; Recommendation 4.7 of the 1990 Conference of the Parties) to the Loktak Lake as a vital step to realise international cooperation for its effective and sustainable conservation and wise use.

*Imphal*

10<sup>th</sup> December 2011

International Human Rights Day

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<sup>1</sup>See the front page of the festival brochure at [https://docs.google.com/viewer?url=http://www.manipursangaifestival.com/media/files/Sangai\\_Festival\\_2011.pdf&chrome=true](https://docs.google.com/viewer?url=http://www.manipursangaifestival.com/media/files/Sangai_Festival_2011.pdf&chrome=true) (accessed on 08/12/2011 at 8:39PM)

## A CRITIQUE OF THE MANIPUR LOKTAK LAKE (PROTECTION) ACT OF 2006: A RAMSAR CONVENTION VIEWPOINT

<p><b>SECTIONS OF MANIPUR LOKTAK LAKE (PROTECTION) ACT 2006 (Act No. 3 of 2006)</b></p>	<p><b>RAMSAR CONVENTION OBJECTIVES, PRINCIPLES, GUIDELINES with special emphasis on the Ramsar Strategic Plan 2009-2015, Resolution VII.8 <i>Guidelines for establishing and strengthening local communities’ and indigenous people’s participation in the management of wetlands</i> (7<sup>th</sup> Meeting of the Conference of the Contracting Parties to the Convention on Wetlands (Ramsar, Iran, 1971), San José, Costa Rica, 10-18 May 1999) and Resolution VIII.9 <i>Guiding principles for taking into account the cultural values of wetlands for the effective management of sites</i> (8<sup>th</sup> Meeting of the Conference of the Contracting Parties to the Convention on Wetlands (Ramsar, Iran, 1971), Valencia, Spain, 18-26 November 2002)</b></p>
<p><b>CHAPTER I: PRELIMINARY</b></p>	<p>There were no consultations or public hearings regarding the Manipur Loktak Lake (Protection) Act 2006. No Free and Prior Informed Consent taken from the indigenous peoples who are the conservators, developers, the competent authority to conserve and save the Lake and wetland its resources given by nature. The Act ignores Resolutions VII.8 and VIII.9 of the Conference of Parties to the Ramsar Convention.</p>
<p><i>Preamble:</i> An Act to provide for administration, control, protection, improvement, conservation and development of the natural environment of the Loktak Lake and for matters connected with as incidental thereto.</p>	<p>The Preamble of the Act does not acknowledge that the Loktak Lake (<i>Loktak Pat</i> or <i>Loktak Ema</i><sup>2</sup> to the indigenous Meetei people) is a Ramsar site of international importance, no mention of biodiversity, bird life, nutrients and products, traditional and customary use by local indigenous communities (Meetei), flood control value to Manipur Valley, etc., so designated since 1990. The Loktak nurtures aquatic and semi-terrestrial plants, as well as small insects and animals. It has historically been celebrated as a home for migratory and residential birds including waterfowl.</p> <p>No understanding of Ramsar purposes, standards and principles of management of wetlands.<sup>3</sup> Non-compliance with the third Ramsar Strategic Plan 2009-2015 (RSP3), and its “three pillars”.</p>

<sup>2</sup>“*Loktak Ema*”, literally means Mother Loktak, depicted today as a weeping mother. The Meetei consider the Loktak to be a spiritual mother who has nurtured the people over the ages. There are many sacred sites within the around the Loktak, many mythological ancestral deities adorn the Loktak through their special sites and rituals. The sacred sites of *Heisnām Lairembi* on Thanga island, and *Yāngon Ningthou* (*Yāngon Maril* is a water channel found within the Loktak Lake, a traditionally recognised feature) at Lāmāngdong, Bishenpur District at the north-western rim of Loktak, *Ibudhou Thangjing* at Moirāng (western rim of Loktak), and *Oknarel Hanuba* at Ningthoukhong (north-western rim) are examples.

<sup>3</sup>Inter alia, (a) Ramsar’s Wise Use Guidelines (Recommendation 4.10 and Resolution 5.6); (b) Ramsar’s Management Planning Guidelines (Resolution 5.7); (c) Monitoring ecological character of the site (Article 3; Recommendation 5.2, Resolution VI.1, and Resolution VII.10); (d) Standards for managing for wise use: i) there is an increase or maintenance of species diversity, size of

	<p>Emphasis laid on administration and control. No mention of wetland conservation and its values</p> <p>The notion of “<i>improvement</i> of the natural environment of the Loktak Lake” is introduced without a clear understanding about what “improvement” denotes or includes.</p> <p>No mention of participatory management or management issues.</p> <p>No mention of wise use.(The Loktak Development Authority<sup>4</sup>, however, states that the lake is “<i>Traditionally wisely used for fisheries and agriculture</i>” – see its official website at <a href="http://www.loktaklake.org/loktaklake.html">http://www.loktaklake.org/loktaklake.html</a> accessed on 5<sup>th</sup> December 2011).The preamble nor the substantive provisions of the Act acknowledges or accordssignificance to the substance of the preamble paragraphs 1-11 of Resolution VIII.9</p> <p>No mention of a catchment area.</p> <p>No reference to UN Declaration on the Rights of Indigenous Peoples, recommendations of the UN Permanent Forum on Indigenous Issues or UN Expert Mechanism on Indigenous Peoples of the Human Rights Council or ILO, which established and promoted indigenous peoples’ rights to control and define their development rights over the land and resources.</p>
<p>1. (3) It shall extend to the whole of 236.21 Sq. km, comprising of large pockets of open water and marshy land formed at the southern part of the Imphal valley up to the confluence of Manipur river and Khuga in the districts of Imphal West and Bishnupur, Manipur located between 93 degree 46 minute &amp; 93 degree 55minute E-longitude and 24 degree 25 minute &amp; 24 degree 42 minute N-latitude, The area is surrounded by the following Dag Nos.:-</p>	<p><b>Ramsar List entry: Loktak Lake.</b>23/03/90; Manipur; 26,600 ha; 24°26’N 093°49’E.</p> <p>In the Act, two entries each of longitude and latitude are given without clarification. The Act describes the whole area of the lake as merely 23,621ha, and excludes two important areas of the lake amounting to a total of 4500 ha. The Loktak Development Authority re-constituted under this Act further reduces the area of the lake to 230 Sq. km (23,000 ha) – see <a href="http://www.loktaklake.org/loktaklake.html">http://www.loktaklake.org/loktaklake.html</a>.</p>

wetland area, and water quality; ii) resource use is sustainable; iii) the precautionary principle is being applied; iv) cost-benefit analyses consider wetland functional values; v) the participatory process takes a catchment perspective and decisions within that framework consider what is best for the wetland(s); and vi) degradation of wetlands has been replaced by efforts to restore and rehabilitate them.

<sup>4</sup>See further below under Section 2 for more information on the Loktak Development Authority

<i>Direction</i>	<i>Dag No.</i>	<i>Sheet No.</i>	<i>No. &amp; Name of Village</i>	<i>District</i>	
North	138	01	22/Naorem Utrapat	Bishnupur	<p>Two portions of the Loktak have already been alienated. The Takmu Fishery Farm is a government owned enterprise (full name is Takmu Experimental Fishery Farm) within the Loktak, while the Keibul Lamjao National Park<sup>5</sup> is a natural component of the Loktak located at its southeastern portion.<sup>6</sup> It had been declared in 1954, and its status upgraded to a national park in 1977.</p> <p>The Act reduces the area of the Loktak compared to the Ramsar list entry.</p> <p>Exclusion of portions of the Loktak amounts to negation of its ecologically holistic character for conservation action.</p> <p>No linkages between site-based and wider-based management anticipated in the Preliminary chapter of the Act. Negates RSP3 on management of wetlands and integrated river basin management.</p> <p>No provision in the Act acknowledges the indigenous people (Meetei) who have lived for centuries in well-organised communities within the Loktak wetland region. The Loktak Development Authority, in its official website, introducing the notion of a <u>Loktak Wetland Complex</u>, mentions that “[O]verall 45 villages and 29 towns are located <b>in</b> and around these wetlands.” (EMPHASIS ADDED) See <a href="http://www.loktaklake.org/wlc.html">http://www.loktaklake.org/wlc.html</a></p> <p>Lack of understanding or implementation of the RSP3, especially first and second actions. Lack of understanding regarding the composite wetlands system in the Manipur Plateau that can contribute to the comprehensive and ecologically sound identification and designation of a suite of sites for the List of Wetlands of International Importance (Ramsar List) in the Manipur Plateau for enhanced conservation and wise use policy, programmes and activities for the Loktak.</p>
Northeast	3078	04	85/Wangoitop	Imphal West	
East	108	01	73/Hayel	Imphal West	
Southeast	1209	02	68/Laphupat	Imphal West	
South	1028	02	65/Wapokpi	Bishnupur	
Southwest	155	13	53/Moirang	Bishnupur	
West	2150	03	43/Thinungei	Bishnupur	
<p>Provided that the Act shall not apply to the Keibul Lamjao National Park covering an area of 40 Sq. Km. and Takmu Fishery Farm covering an area of 5 Sq. Km.</p>					
<p>2. (b) “Authority” means Loktak Development Authority constituted by the State Government under this Act;</p>					<p>The <b>Loktak Development Authority</b> (LDA), a government of Manipur undertaking, was established in July 1987 under the Societies Act XXI of 1860 under the aegis of the Department of Irrigation and Flood Control, Government of Manipur. Its mission was to “[R]estore and develop Loktak Lake resources and biodiversity for present and future generations through <b>participatory</b> (EMPHASIS ADDED) processes,</p>

<sup>5</sup>The Indian Ministry of Environment and Forests (MOEF) in its Wetlands Inventory ascribes the Keibul Lamjao National Park, along with many other natural wetlands in Manipur, as a “man-made wetland” (see <http://moef.nic.in/divisions/csurv/Wetland%20Inventory.pdf>)

<sup>6</sup>See <http://www.loktaklake.org/wlc.html>



	<p><i>research and conservation activities.</i>” The LDA is now a body constituted by the Government of Manipur under the act, ‘The Manipur Loktak Lake (Protection) Act, 2006 (Manipur Act 3 of 2006) notified in the Manipur Gazette, Imphal, the 5th April, 2006, to provide for administration, control, protection, improvement, conservation and development of the natural environment of the Loktak Lake and for matters connected with as incidental thereto. It now functions under the aegis of Department of Forest and Environment, Government of Manipur. The participatory model is not a pillar of function in its latest <i>avatar</i>.</p>
<p>(g) “Occupiers” means a person who dwells in huts or houses on the phumdis or uses the phumdis;</p>	<p>No recognition of stakeholders as defined under Resolution VII.8. In fact “stakeholders” are defined as “occupiers” by the Act. This Act perpetrates the outdated legal principle of <i>eminent domain</i> embodied in the outdated colonial Land Acquisition Act 1 of 1894.<sup>7</sup> This provision brings the Act within the ambit of the Land Acquisition Act 1 of 1894.</p> <p>Traditional users of the Loktak, including those indigenous fisher community families, who live in and around the lake are being sought to be legally defined as encroachers. There are 1147 inhabited floating huts on the Loktak Lake. Many families were born and brought up from the Lake dwellers, and were given voting card and have separate polling station for voting called <i>Champu Khangpat</i> polling station.</p> <p>According to the LDA, more than 300,000 people depend on the Loktak and associated wetlands and their resources for their sustenance.</p> <p>The indigenous fishing community possesses a wonderful and rich repertoire of knowledge and skills for the wise use of the Loktak and other wetlands in the Manipur Plateau. The cultural heritage of the indigenous Meetei fisher communities is captured in oral literature, customary laws, cultural practices including beliefs and</p>

<sup>7</sup>“[I]f you are uprooting people of their only sources of livelihood you (government) should make alternative arrangements for their livelihood and accommodation. It is time the Act is scrapped,” the Supreme Court of India bench headed by Justice GS Singhvi remarked and also said that “[T]he Act has become a fraud. It seems to have been devised by people with a sick mind who have scant regard for the welfare of the common man.” (see [http://zeenews.india.com/news/nation/land-acquisition-act-is-a-fraud-supreme-court\\_724306.html](http://zeenews.india.com/news/nation/land-acquisition-act-is-a-fraud-supreme-court_724306.html) and <http://www.thehindu.com/news/national/article2607298.ece>)

	<p>spiritual rituals, songs or ballads and performances. Some of this traditional lore has been written as poetry and songs recently by prominent Meetei poets.<sup>8</sup></p> <p>The Act negates Paragraph 19 and 20 of Resolution VIII.9, which states:</p> <p><i>19. FURTHER ENCOURAGES Contracting Parties, within their national and legal frameworks and available resources and capacity:</i></p> <p><i>a) to consider the compilation and assessment of both material and non-material cultural elements related to wetlands and water, in particular when preparing the Ramsar Information Sheet (RIS) for the designation of new Wetlands of International Importance or when updating the RIS of existing Ramsar sites, taking into account, as appropriate, intellectual property rights, customary law, and the principle of prior informed consent, in accordance with CBD and WIPO rules;</i></p> <p><i>b) to promote the appreciation and revitalization, of these cultural values among</i></p>
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<sup>8</sup>For example, Khwairakpam Chaoba (1895-1950), Lamabam Kamal (1899-1935) and Hijam Anganghal (1892-1943). Hijam Anganghal's "Khamba Thoibi Seireng" (1940), a poem of 39,000 lines is considered to be a national epic of the Meetei people. It elaborated on the centuries old ballads, stories and ritualized practices of the people of the Moirang Principality on the Loktak of the Manipur Plateau. Khwairakpam Chaoba's poem "Loktak Məpānda" (On Loktak's Edge) freely translated by Laifungbam Debabrata below reflect the deep-rooted lyrical and emotive nature of the cultural association between the Meetei people and the Loktak Lake:

This Meetei waters before us resplendent  
is what we call our Loktak.

On life's new current this day,  
a nascent tide awakens;  
a towering wave approaches,  
to drown our wildest imagination.

This Meetei waters before us resplendent  
is what we call our Loktak.

A fresh wind caressing the waters  
quickens the waves to a dance;  
on boats are our women afloat,  
their fishing nets exulting.

This Meetei waters before us resplendent  
is what we call our Loktak.

<http://tabish.freeshell.org/eeyek/seireng/loktak.html>

	<p><i>populations close to wetlands, and in general among the wider public;</i></p> <p><i>c) to include relevant aspects of cultural heritage in both the design and implementation of wetland management plans;</i></p> <p><i>d) to make efforts to integrate cultural and social impact criteria into environmental assessments, which could include, inter alia, issues of particular cultural concern, such as beliefs and religions, customary practices, forms of social organization, systems of natural resources use, including patterns of land use, places of cultural significance, sacred sites and ritual ceremonies, languages, customary lore/law systems, political structures, roles and customs;</i></p> <p><i>e) to carry out such efforts with the active participation of indigenous peoples, local communities and other stakeholders, and to consider using the cultural values of wetlands as a tool to strengthen this involvement, particularly in wetland planning and management;</i></p> <p><i>20. ENCOURAGES Contracting Parties to recognize cultural and heritage values relating to wetlands in their existing heritage protection, legal framework and policies;</i></p> <p>The state government takes pride in the arrival of hovercrafts with it being looked at not only for counter-insurgency operations but also, as stated by the Chief Minister “the machine would not only be helpful in saving the Loktak from encroachers, it would also complete the task of flushing out militants”. This highlights the highly problematic lens of the state that more often than not looks at the local indigenous fisher community of the lake as encroachers as well as ‘insurgents’.<sup>9</sup></p> <p>On the other hand, no mention is made to identify government infrastructure and Indian Army and Paramilitary Forces who are occupying areas within the lake by building camps and clearing vegetation.</p>
<p>3. Division of Loktak Lake- For the purpose of this Act, the Lake shall be divided into two zones, namely:-</p> <p>(i) “Core Zone” which will be the No-Development Zone or Totally Protected Zone consisting 70.30 Sq. Km. surrounded by the following Sheet Nos:-</p>	<p>The designation of a so-called “core zone” in the designated site is arbitrary as the entire wetland is listed. There is no surrounding zone to the wetland identified. The zonation provided in the Act seems to be not based on any overall management plan or strategy. According the Ramsar Convention, the entire designated site is to be conserved. The “core zone”, therefore, from such a perspective should be the entire Ramsar site. The “core zone” as defined in the Act is a miniscule portion of the Loktak, a mere 7000 odd hectares.</p>

<sup>9</sup><http://soibamhariPriya.blogspot.com/2011/04/clash-of-campaigns-loktak-lake-as-site.html>

Direction	Sheet No	No. & Name of Village	District	
North	01	76/Mayang Imphal	Imphal West	<p>Also, the “core zone” seems to include the traditionally inhabited island areas of Séndrā, Karāng, Thāngə and Ithing in the Loktak region. The “core zone” division of the Loktak wetlands is not scientific as the area classified is not based on having characteristics of a wetland, such as water volume, depth, presence of diversity of flora and fauna specific to the wetlands. This erroneous process has led to the inclusion of indigenous Meetei settlement villages on Séndrā, Karāng, Thāngə and Ithing within the “core zone”, which will occasion further eviction of these villagers besides those families living in floating huts on the <i>phumdi</i>.</p> <p>The Act does not specify what is meant by the two terms “No-Development” or “Totally Protected”.</p> <p>The “core zone” or totally protected area means no right to life for those indigenous people who are living within this zone for years. Whoever enters into the core zone may face life imprisonment which gives impunity to the LDA to continue human rights violations. If we don’t treat the whole lake and its environment equally then the Lake may become extinct due to sedimentations and stagnation of water and other aquatic bodies. The indigenous peoples know best the relationship of water and humans, and its survival including conservation, sustainable development and preservation.</p> <p>The government does not recognise that the Loktak Hydro-electric Power Project itself is a major violator of this “core zone” concept. The bund roads are also significant encroachment structures constructed in this “core zone” by the Government of Manipur.</p> <p>The zonation method used under the Act is non-compliant of the guidelines issued under Strategy 2.4 of RSP3.<sup>10</sup></p>
Northeast	03	72/Hangul	Imphal West	
East	02	70/Phubakchao	Imphal West	
Southeast	02	70/Phubakchao	Imphal West	
South	Keibul Lamjao National Park & Takmu		Bishnupur	
Southwest	02	47/Sunusiphai	Bishnupur	
West	03	44/Ningthoukhong	Bishnupur	
Northwest	04	40/Khoijuman Khunou	Bishnupur	
(ii) “Buffer Zone” means the remaining area of the lake excluding Core Zone area.				

<sup>10</sup>4<sup>th</sup> edition of the Ramsar Handbooks 2010: No. 18, Managing Wetlands/Frameworks for managing wetlands of international importance and other wetlands; Section X Management Units, Zonation and Buffer Zones (Paragraphs 68-80).

	<p>the protected area.</p> <p>Whether the area of the Loktak is 26,600 ha (Ramsar database), or 23,621 ha (according to the Act) or 23,000 ha (LDA), the designated “Buffer Zone” seems to be within the wetland and not an area under a different land-use pattern.</p>
<p>4. Prohibition of alienation of Loktak Lake - No part of Loktak Lake whatsoever standing within the Loktak Lake together with all additions thereto or alterations thereof which may be made after the commencement of this Act, shall be sold out or leased out or let out on hire or exchanged or mortgaged or otherwise transferred or conveyed or allotted or converted in any form whatsoever to any person or organization or society or agency or trust.</p>	<p>The Act itself, vide Section 1, violates this prohibition by alienating the <i>Takmu Pat</i> component of the Loktak, as the Takmu Experimental Fishery Farm, to the Fishery Department of the Government of Manipur. Keibul Lamjao National Park is also a part of the Loktak Lake.<sup>11</sup></p> <p>Moreover, many changes have been made, before the Act that has contributed significantly to the deterioration of the ecological health of the Loktak. For example, the bunding and roads built connecting Moirang town with Séndrā island and further connecting Ithing and Thāngə made a significant alteration of the wetland. The bund road from Moirang to Séndrā and Ithing isolated the portion of the lake known today as the Takmu Experimental Fishery Farm owned by the government.</p>
<p><b>CHAPTER II: REGULATIONS OF ACCESS TO LAKE RESOURCES</b></p>	<p>The reality of contesting knowledge systems is conspicuous in this chapter, which focusses solely on “scientific research”. See an article by Ms Soibam Haripriya published in the Imphal Free Press on 17<sup>th</sup> April 2011, <a href="http://soibamharipriya.blogspot.com/2011/04/clash-of-campaigns-loktak-lake-as-site.html">http://soibamharipriya.blogspot.com/2011/04/clash-of-campaigns-loktak-lake-as-site.html</a></p>
<p>5. Previous approval of the Authority. - (1) No person shall without the previous approval of the Authority obtain any lake resources or knowledge associated thereto for research or for commercial utilisation or for bio-survey and bio-utilisation.</p>	<p>This is a draconian provision that violates every existing tenet of the Ramsar Convention’s developing knowledge-based framework for the conservation and wise use of wetlands.</p> <p>Paragraph 2 of the Guiding principles (Resolution VIII.9) states:</p> <p>“There is a strong link between wetland conservation and benefits to people. In addition, a positive correlation between conservation and the sustainable use of wetlands has been repeatedly demonstrated. Therefore, conservation requires the involvement of indigenous peoples and local communities and cultural values offer excellent opportunities for this.”</p>

<sup>11</sup> These fundamental aspects of the Loktak are already acknowledged by the Authority established in 1987, in its website, and also by the Wetlands International – South Asia (WISA) through its study and project from 1998-2004.

	Further, this provision negates Guiding Principles 1-18. The recent 10-day “eviction drive” <sup>12</sup> (15-25 November 2011) on the Loktak by the LDA and Manipur Police aided by the Indian Army and Paramilitary seeks to wipe out the cultural edifice of centuries associated with the lake. <sup>13</sup> The inhuman eviction drive through arson and torture made a mockery of India’s existing obligations to international human rights, support to the UN Declaration on the Rights of Indigenous Peoples and stature as a democracy.
(2) No person shall, without the previous approval of the Authority, transfer the results of any research relating to take resources.  Explanation: - For the purpose of this section, “transfer” does not include publication of research papers or dissemination of knowledge of any seminar or workshop if such publications are as per guidelines issued by the State Government or Authority.	The Authority usurps all user rights.
<b>CHAPTER III: LOKTAK DEVELOPMENT AUTHORITY</b>	The newly constituted LDA has a much different mandate from the abolished LDA established in 1987. There are inadequacies, vis-à-vis the Ramsar Convention’s principles and guidelines for wetlands management, and many loose ends in this Act regarding the powers and functions of this authority. The LDA is not an autonomous body but an authority selected and placed by the government of Manipur under its superintendence and control.
6. Constitution of Loktak Development Authority:- The State Government shall, by notification in the Official Gazette constitute a body to be called the Loktak Development Authority to exercise such powers and functions conferred upon it under this Act. The Authority shall be a body corporate by its name having a perpetual succession and common seal and shall by the said name sue and be sued through its Member-Secretary.	Section 39 abolishes the LDA as a registered society, but the mandate and functions of the newly constituted LDA is contradictory to the now abolished LDA
7. Composition of the Loktak Development Authority <sup>14</sup> :-	It is an authoritarian top-heavy government body. This is a politically heavy-weighted body along with membership from the State’s top bureaucracy. There are no

<sup>12</sup>It is unclear whether the drive was a military counter-insurgency operation or aimed at implementing the provisions of the Act for conservation purposes.

<sup>13</sup>Refer “URGENT APPEAL TO STOP GOVERNMENT OF INDIA’S GOVERNMENT’S REIGN OF TERROR WITH ITS ARSONING SPREE OF HOUSES OF MEITEI PEOPLE IN LOKTAK LAKE, A RAMSAR SITE IN MANIPUR” communicated to the National Human Rights Commission of India and the Ramsar Bureau on 30<sup>th</sup> November 2011.

<sup>14</sup>The Manipur Loktak Lake (Protection) Amendment Act of 2007 (Act No. 5 of 2007) increases the members of the LDA to include four (4) other members of the Manipur Legislature (one each from the Saitu, Henglep, Wabgai and Hiyanglam Assembly Constituencies)

<p>The Authority shall consist of the following members, namely-</p> <ol style="list-style-type: none"> <li>1. Chief Minister, Manipur      Chairman</li> <li>2. Minister (Forest &amp; Environment)      Vice-Chairman</li> <li>3. Minister (Revenue)      Member</li> <li>4. Minister (Irrigation &amp; Flood Control)      Member</li> <li>5. Minister (Fisheries)      Member</li> <li>6. Minister (Tourism)      Member</li> <li>7. Minister (Power)      Member</li> <li>8. Member of Legislative Assembly, Nambol Assembly Constituency      Member</li> <li>9. Member of Legislative Assembly, Oinam Assembly Constituency      Member</li> <li>10. Member of Legislative Assembly, Bishnupur Assembly Constituency      Member</li> <li>11. Member of Legislative Assembly, Moirang Assembly Constituency      Member</li> <li>12. Member of Legislative Assembly, Thanga Assembly Constituency      Member</li> <li>13. Member of Legislative Assembly, Kumbi Assembly Constituency      Member</li> <li>14. Member of Legislative Assembly Wangoi Assembly Constituency      Member</li> <li>15. Member of Legislative Assembly Mayang Imphal Assembly Constituency Member</li> <li>16. Chief Secretary, Government of Manipur      Member</li> <li>17. Addl. Chief Secretary / Principal Secretary / Commissioner / Secretary      (Forest &amp; Environment). Government of Manipur      Member</li> <li>18. Commissioner/Secretary (Finance), Government of Manipur      Member</li> <li>19. Commissioner/Secretary (Planning), Government of Manipur      Member</li> <li>20. Commissioner/Secretary (Revenue), Government of Manipur      Member</li> <li>21. Commissioner/Secretary (Irrigation &amp; Flood Control), Government of Manipur Member</li> <li>22. Commissioner/Secretary (Power). Government of Manipur      Member</li> <li>23. Commissioner/Secretary (Fisheries), Government of Manipur      Member</li> <li>24. Secretary (Law), Government of Manipur.      Member</li> <li>25. Vice-Chancellor, Central Agriculture University, Manipur or his representative Member</li> <li>26. Deputy Commissioner, Bishnupur, Government of Manipur      Member</li> <li>27. Deputy Commissioner, Imphal West, Government of Manipur      Member</li> <li>28. Chief Engineer (Irrigation &amp; Flood Control Department) Government of Manipur      Member</li> <li>29. Chief Engineer (Power), Government of Manipur      Member</li> <li>30. Principal Chief Conservator of Forest, Government of Manipur      Member</li> <li>31. Director (Tourism), Government of Manipur      Member</li> </ol>	<p>independent experts of established reputation in this Authority belonging to any field related to the conservation and wise use or the conservation management of this Ramsar site.</p> <p>The officials from the Manipur government bureaucracy identified as members are all transferable posts that are frequently revised. This will greatly affect the functioning of the newly constituted LDA. Many members will serve only for a very short term before they are transferred, while newly replaced members in insecure posts will take a long time to familiarize themselves with the issues.</p> <p>The three non-official members are also nominees of the government, i.e., they shall be political appointees. What the nomination mechanism and process will be are not stipulated. There are no criteria as to the desired qualifications or experience of these non-official nominees.</p> <p>There are no provisions for women to be in the LDA membership. Inclusion of women in protection, preservation, and sustainable development of Lake and the effort of women can never be under estimated.</p> <p>This Authority's composition and style negates Guiding Principle 27 encouraging cross-sectoral cooperation. This set-up does not strengthen the participation of indigenous peoples or local communities in the management of the Loktak.</p> <p>RSP3 guidelines stipulate inclusive stakeholders' participation, particularly local communities and indigenous peoples, in wetland management and planning process. Representation is of a token nature through this constitution of the LDA. The inclusion of politically partisan representatives of the Manipur Legislature may, in fact, prevent inclusive participation of legitimate stakeholders. Local government representation (under Indian Constitutional 73<sup>rd</sup> and 74<sup>th</sup> Amendment Acts of 1992 or The Manipur (Hill Areas) District Council Act, 1971) is missing from this composition.</p> <p>The Act is perceived by the local indigenous fisher Meetei communities as an externally motivated imposition that threatens their livelihoods, customary rights and violates indigenous cultural practices.</p>
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<p>32. Director (Fisheries), Government of Manipur Member  33. Director (Settlement), Government of Manipur Member  34. Chief Engineer, National Hydro-electric Power Corporation Limited, Loktak Member  35. Senior Scientific Officer (Ecology &amp; Environment), Government of Manipur Member  36. Project Director, Loktak Development Authority Member Secretary  37. 3 (three) non Official members to be nominated by the Government</p>	
<p>8. Terms and Conditions of Services of Non-official Members:- The terms of office and conditions of service of the non-official member of the Authority shall be such as may be prescribed by the State Government.</p>	<p><i>Governance issues:</i> The terms and conditions of non-official members are absent, and left open to a future decision by the government. No desirable qualifications or experience are mentioned. The time-frame of their nomination and service are also not mentioned. The non-official members’ terms of office will be under the sweet will of the politicians. They may continue as long as the politician/bureaucrats are pleased. The question of loop-holes left deliberately in the <b>governance</b> aspects of this Authority is moot.</p> <p>The first and second Ramsar Strategic Plans have been succeeded by the third plan (2009-2015). The questions of to what extent the national focal points and the national government have been able to influence, advise and effectively oversee the provincial Government of Manipur in the legislative and institutional framework and policy have not been evaluated.</p> <p>It is extremely pertinent to bear in mind that Manipur has been a theatre of <b>armed conflicts</b> since several decades (1970s). Indigenous peoples’ nationalist non-state organisations have been in open conflict with state authorities and security forces. The entire State of Manipur has been declared a “Disturbed Area” under the Disturbed Areas Act since 1980, and military emergency legislation has been promulgated (Armed Forces Special Powers Act of 1958). Civilian authorities are constantly being challenged. There are multiple influential actors involved in the management of the Lake due to the presence of the military, non-state armed groups and many civil society organisations in addition to the government authorities.</p> <p>The political climate in Manipur is in a state of constant flux. Most government provincial offices function at a very low capacity and efficiency. Many public servants do not attend their posts regularly due to security reasons and disturbances in public life. The heavy presence of the military and special armed police commando</p>



	<p>units in and around the Loktak Lake region has been a reality for many years. Military camps have been established within the lake, and security forces regularly patrol the lake in motorized boats. Recently, hovercrafts and armed speed-boats were also put into service to aid the security forces to carry out counter-insurgency operations. The Loktak is a very disturbed lake.<sup>15</sup> In this climate of armed conflict, the local indigenous fishing communities live a life of terror, ill-treatment and abuse, marginalization and exclusion from decision making.</p> <p>The office of the newly constituted LDA is no longer located near the site but has been shifted into a high security institutional area in the heart of Imphal, the capital city of Manipur. No mention is made in the Act where the LDA will operate from. The pre-existing LDA was registered with its headquarters in Moirang town on the Loktak Lake at Bishenpur District.</p>
<p>9. Resignation:- (i) A non-official Member may at any time, by writing under his hand addressed to the Chairman of the Authority, resign his office.</p> <p>(ii) The Authority shall, as soon as, it is received, inform such resignation to the State Government.</p>	<p>Only non-official (political) appointees nominated by the government can resign. The resignation and replacement of the non-official members will have no significant impact in the LDA, as they form a very small minority.</p> <p>Including those Legislators identified further by the Manipur Loktak Lake (Protection) Amendment Act of 2007 (Act No. 5 of 2007), there are altogether 43 members in the LDA, of which only three are non-official members.</p>
<p>10. Removal of Members:- The State Government may remove from the Authority any member who, in its opinion, has –</p> <p>(a) been adjudged as an insolvent, or</p> <p>(b) been convicted of an offence which involves moral turpitude; or</p> <p>(c) become physically or mentally incapable of acting as a member, or</p> <p>(d) so abused his position as to render his continuance in office detrimental to the public interest; or</p> <p>(e) acquired such financial or other interest as is likely to affect prejudicially his functions as a member.</p>	<p>The conditions under Section 10(d) and (e) are extremely resistant to establishment or proof; abuse of office and a conflict of interest are the most frequently encountered public issues of corruption in administration.</p>
<p>11. Meetings of the Authority:-</p>	<p>Section 11(iv) provides a <i>carte-blanc</i> proviso excusing any irregularities that may be committed by the LDA through its decisions or actions. No checks and balances</p>

<sup>15</sup>Please see an article “Life Arrested” published in the local news print media (The Sangai Express) in May 2006 [http://e-pao.net/epSubPageExtractor.asp?src=news\\_section.opinions.Opinion\\_on\\_Killing\\_of\\_Manorama.Life\\_Arrested](http://e-pao.net/epSubPageExtractor.asp?src=news_section.opinions.Opinion_on_Killing_of_Manorama.Life_Arrested)

<p>(i) The Authority shall meet at such time and place and observe such Rules of procedures in regard to the transaction of business at its meeting (including the quorum at its meeting) as may be prescribed.</p> <p>(ii) The Chairman of the Authority shall preside over the meetings of the Authority.</p> <p>(iii) If for any reason, the Chairman is unable to attend any meeting of the Authority, the Vice-Chairman shall preside over the meeting.</p> <p>(iv) If at a meeting, neither the Chairman nor the Vice-Chairman is present, any member of the Authority chosen by the members present at the meeting shall preside over meeting.</p> <p>(v) All questions which come before any meeting of the Authority shall be decided by a majority of votes of the members present and voting and in the event of equality of votes, the Chairman or, in his absence, the person presiding, shall have an exercise a second or casting vote.</p> <p>(i) Every member who is in any way, whether directly, indirectly or personally, concerned or interested in a matter to be decided at the meeting shall disclose the nature of his concern or interest and after such disclosure, the member concerned or interested shall not attend that meeting.</p> <p>(ii) No act or proceeding of the Authority shall be invalidated only by reason of :</p> <p>(a) Any vacancy in, or any defect in the constitution of the Authority, or</p> <p>(b) Any defect on the appointment of a person acting as a Member, or</p> <p>(c) Any irregularity in any procedure of the Authority not effecting the merits of the case.</p>	<p>are in place.</p> <p>There is no quorum of meeting. No number of meetings is mentioned and no annual report is made known to public.</p> <p>Section 11(iv) provides a condition in which meetings of the LDA can be convened without the Chairman and Vice-Chairman. Such meetings in absentia of the Ministers will become the norm than the exception. Since there is no quorum established by the Act, orders and decisions taken by the LDA may be liable to be <i>ultra vires</i> or <i>null ab initio</i> without the authentication of the Chairman or his authorized person (who may not be a member of the LDA) - see Section 15.</p>
<p>12. Filling up of Vacancies:- Vacancies of non-official members of the Authority shall be filled up by the State Government for the remaining period of the term.</p>	<p>See the comments to Section 9.</p> <p>There is no specific term of office for LDA members. Vacancies are only for non-official members.</p>
<p>13. Travelling Expenses etc.:- The non-official members of the Authority shall be entitled to receive from the Loktak Lake Development Fund such travelling and sitting allowances as may be prescribed.</p>	
<p>14. Officers and Employee of the Authority:- (1) The State Government shall appoint</p>	<p>The Project Director, officers and other employees of the LDA do not comply with</p>

<p>a person to be the Project Director of the Authority, possessing such experience and qualifications as may be prescribed to exercise such powers and perform such duties under the Authority:</p> <p>(2) The Authority may, with the prior approval of the State Government, appoint such number of other officers and other employee, on such terms and conditions including the salaries and allowances payable thereof, as may be prescribed as it considers necessary for the efficient discharge of its functions under this Act.</p>	<p>any management guidelines of the Ramsar Convention. They shall be employed and charged to efficiently discharge of the LDA's functions under the Act.</p>
<p>15. Authentication of orders and decisions of Authority:- All order and decisions of the Authority shall be authenticated by the signature of the Chairman or any other member authorized by the Chairman in this behalf and all other instrument executed by the Authority shall be authenticated by the Member-Secretary.</p>	<p>See the comments to Section 11.</p>
<p>16. Expenses of the Authority:- All expenses of the Authority including the salaries and allowances payable to the officers and other employee shall be defrayed from the Loktak Lake Development Fund created under section 25 of this Act.</p>	<p>Comments reserved.</p>
<p><b>CHAPTER IV: FUNCTIONS AND POWERS OF THE AUTHORITY</b></p>	<p>There is no effective representation of citizens' interests in policy and decision-making in the LDA.</p>
<p>17. Power and functions of the Authority:- Subject to such rules as may be made under this Act, the powers and duties of the Authority shall be –</p> <p>(a) to administer the affairs of the Loktak Lake and to protect and improve the natural environment of lake;</p> <p>(b) regulate by granting of approvals or otherwise requests for commercial utilization or bio-survey and bio-utilisation of any lake resources; and</p> <p>(c) to do such other things as may be incidental or conducive to the efficient administration for protection and improvement of the lake.</p>	<p>The management issues of the Loktak are totally absent in the powers and functions of the LDA. It is clearly an administrative body set up with the main task of “regulating” commercial exploitation of the lake and its resources.</p> <p>Commercial exploitation of the lake's bio-resources is liable to be carried out by government agencies and corporations specifically set up by the Government of Manipur. Grants are liable to be siphoned off for such purposes.</p>
<p>18. Delegation of powers by the Project Director :- The Project Director, may, with the prior approval of the Authority, by general or special order assign duties or functions under this Act or Rules, made the under to any officer of the Authority.</p>	<p>Comments reserved</p>
<p>19. Prohibition of the following activities within the Buffer Zone :- The following activities are prohibited within the Buffer Zone, namely-</p>	<p>While there is conceptual failure, vis-à-vis the Ramsar Convention's mission and objectives in the vague demarcation of a “buffer zone” within a Ramsar site, land reclamation, bunding and similar disturbances are being presently carried out by the</p>

<ul style="list-style-type: none"> <li>(i) Setting up of new industries and expansion of existing industries.</li> <li>(ii) Setting up and expansion of fish processing units.</li> <li>(iii) Setting up and expansion of units, mechanisms for disposal of wastes and effluents.</li> <li>(iv) Discharge of untreated wastes and effluents from industries, cities or towns and other human settlements.</li> <li>(v) Dumping of city or town waste for the purpose to land filling.</li> <li>(vi) Land reclamation, bunding or disturbing the natural course of drainages, lake water with similar obstructions except those required for control and erosion and maintenance or cleaning of waterways.</li> <li>(vii) Construction activities in ecologically sensitive areas as specified in the notification, and</li> <li>(viii) Dressing or altering of hills, natural features including landscape drainage for beautification, recreational and other such purposes.</li> </ul>	<p>State Government.</p> <p>Roads are being built across or immediate periphery of the lake using bunding and land reclamation as a technique. One such road is the 14 KM Mayang Imphal (Imphal West District) to Toubul Village (Bishenpur District) road, which is nearing completion. The bund-road being constructed should be within a buffer zone.</p> <p>Discharge of effluents from the towns of Moirang, Bishenpur and Imphal including other human settlements continue without inclusion of these issues and how to address them within a management plan for the Loktak.</p> <p>The government runs the Takmu Experimental Fish Farm within the Ramsar site, but this area is excluded from the purview of the Act in order to escape its protection provisions.</p> <p>Defacement of the natural topography is also perpetrated by the Government of Manipur through the construction of military camps in Séndrā, Karāng and Thāngō Islands on the Loktak. The Indian Army and Paramilitary have denuded the hillocks on these islands of their vegetation and tree cover.</p>
<p>20. Prohibition of certain activities in Core Zone :- No person or occupier shall</p> <ul style="list-style-type: none"> <li>(i) discharge or emit any sewage or domestic waste into the lake;</li> <li>(ii) plant or cultivate athaphum;</li> <li>(iii) deposit or fix any stones, bamboo, log, net etc., into the lake for the purpose of rearing fish;</li> <li>(iv) build any hut or house on phumdis inside the lake;</li> <li>(v) engage in athapum-fishing in the lake;</li> <li>(vi) use any fishing feeds and pesticides into the lake; except with the prior permission of the authority constituted under this Act.</li> </ul>	<p>The prohibitions are limited to only discharge of sewage or domestic effluents and traditional fishing activities carried out for centuries by the local indigenous community or related to them.</p> <p>Prohibition of athaphum is non-compliance with RSP3 (first action regarding conservation of cultural values, public participation in management) and the Guiding Principles of Resolution VIII.9.</p> <p>The traditional indigenous fishing technique of “<i>phum namba</i>” (literally, <i>phum</i> pressing) is applied using athaphum as the primary foundation of fish breeding and trapping. <i>Phum namba</i> is an ancient fishing technique associated with the people of the Loktak, and it is performed with ritual, song and gender sensitive participation.</p> <p>Loktak is already a receiver of sewage and other related effluents from several towns around it, including Imphal, the capital of Manipur, which has led to its high levels of pollution.<sup>16</sup>The indigenous communities dependent on the wetlands are blamed for</p>

<sup>16</sup>See “Integrated wetland and river basin management: A Case Study of Loktak Lake” by Wetlands International - South Asia, New Delhi, India ([www.ramsar.org/doc/wurc/wurchbk4cs5.doc](http://www.ramsar.org/doc/wurc/wurchbk4cs5.doc))

	polluting the wetlands. The Ithai Barrage of the Loktak Hydro-electric Project (National Hydro-Electric Power Corporation Ltd.) is another reason for the accumulation of pollutants in the Loktak as it blocks the natural cleansing process of the wetlands.
<p>21. Power of entry and inspection :- Subject to the provisions of this Act any persons empowered by the State Government or the Authority in this behalf shall have right to enter, at all reasonable times with such assistance as he considers necessary, any place;</p> <p>(a) For the purpose of performing any of the functions of the State Government/ Authority entrusted to him;</p> <p>(b) For the purpose of determining whether and if so in what manner any such functions are to be performed or whether any provision of this Act or the rules made thereunder or any notice, order direction or authorization served, made, given or granted under this Act is being of has been complied with;</p> <p>(c) For the purpose of examining and testing any equipment, industrial, plant, record, register, document or any other material object or for conducting a search of any building in which he has reason to believe that an offence under this Act or the rules made thereunder has been or is about to be committed and for seizing any such equipment, industrial plant, record, register, document or other material object if he has reasons to believe punishable under this Act or the rules made thereunder or that such seizure is necessary to prevent or mitigate environmental pollution of the Lake;</p> <p>(d) Every person carrying on any industry, operation or process or handling any hazardous substance shall be bound to render all assistance to the person empowered by the State Government / Authority under this section for carrying out the functions under that section.</p>	<p>This is another draconian and illegal measure that violates human rights and fundamental freedoms, including the right to privacy<sup>17</sup>, and also legitimizes impunity. It permanently abrogates Article 17 of the International Covenant on Civil and Political Rights (ICCPR), to which India is a state Party. The right to privacy is an important right to fulfill Ramsar Convention’s acknowledged “needs to work in cooperation with multilateral and regional agreements and other bodies addressing the need for resolute action to preserve the cultural heritage” of indigenous Meetei communities on the Loktak (Resolution VIII.9; preamble paragraph 13)</p> <p>The civilian police are not mentioned. Only the police is authorized to make such entry and search under the authority of a warrant served by the Magistrate.</p> <p>There is no role for the Executive or Judicial Magistrates whose orders are necessary under law before any entry, search and seizure of any properties may be carried out in accordance with laws and strictures established.</p> <p>The inclusion of the State Government is an empowering authority under this Chapter that deals with the functions and powers of the LDA exclusively is a devious way to address, through counter-insurgency operations<sup>18</sup>, the situation of the open non-international armed conflict that has prevailed in Manipur since the 70s. The Indian Army is permanently stationed within the Loktak in built up camps, such as on Séndrā Island. This provision effectively transforms the Act into a military or police legislation that is counter to the purposes and principles of the Ramsar Convention.</p>

<sup>17</sup>The Indian Constitution does not expressly have a clause guaranteeing privacy. However, in 1963 in *Kharak Singh v State of UP*, the Supreme Court held that Article 21 dealing with Personal Freedom (Protection of life and personal liberty) was broad enough to cover privacy as well. The two justices said that “Nothing is more deleterious to a man’s physical happiness and health, than a calculated interference with his privacy. The most forceful ruling from the Supreme Court came in 1993 in *R. Rajagopal vs State of Tamil Nadu* - The right to privacy is implicit in the right to life and personal liberty guaranteed to the citizens of this country by Article 21. It is a “right to be let alone.”

<sup>18</sup>The Indian Army and Manipur Police Commandos have conducted several joint military counter-insurgency operations, under code names, in the Loktak Lake in the recent years. These include, inter alia, Operation “Loktak” in 2005 and Operation “Summer Storm” in 2009 (see <http://www.assamtribune.com/scripts/details.asp?id=apr2009/ne7>), but such operations are carried out regularly within the Ramsar site. See also [http://articles.timesofindia.indiatimes.com/2011-03-07/guwahati/28665078\\_1\\_loktak-lake-hovercraft-keibul-lamjao-national-park](http://articles.timesofindia.indiatimes.com/2011-03-07/guwahati/28665078_1_loktak-lake-hovercraft-keibul-lamjao-national-park); <http://ifp.co.in/imphal-free-press-full-story.php?newsid=3015&catid=1> and <http://www.easternmirrornagaland.com/index.php/news/region/2781-loktak-hut-dwellers-protest-govt-move>

	<p>If the legislation is an integral part of a management platform with conflict resolution as one of the major agenda items, as enunciated under the RSP3 guidelines on wetlands management, then bringing in such draconian and authoritarian or militaristic provisions would be antithetical to conflict resolution mechanisms and extremely detrimental to the objective.</p>
<p><b>CHAPTER V: STEERING COMMITTEE AND ITS FUNCTIONS</b></p>	<p>The Steering Committee has arbitrary powers to make By-Laws without reference to the Authority which has set it up and composed of its members. It is an “authority within an authority”, and essentially a budget and finance facilitation group, with no link to the Ramsar Convention processes and mechanisms.</p>
<p>22. Constitutions of Steering Committee:- The Authority may constitute a Committee called Steering Committee consisting of the following members –</p> <ol style="list-style-type: none"> <li>1. Chief Secretary; Government of Manipur Chairman</li> <li>2. Addl. Chief Secretary/Principal Secretary/Commissioner/Secretary (Forest &amp; Environment), Government of Manipur Member</li> <li>3. Principal Secretary (Finance): Government of Manipur Member</li> <li>4. Commissioner / Secretary (Planning), Government of Manipur Member</li> <li>5. Commissioner / Secretary (Irrigation &amp; Flood Control), Government of Manipur Member</li> <li>6. Representative of the Secretary, Ministry of Environment &amp; Forest, Government of India, New Delhi Member</li> <li>7. Not more than 3 (Three) Officials or consultants to be nominated to the committee by a regulation of the Steering Committee Member</li> <li>8. Project Director, Loktak Development Authority Convenor</li> </ol>	<p>This Committee has a “Chairman” and a “Convenor”, whose functions are not clarified in the provision. There is no provision for the participation of experts, stakeholders and women in the Steering committee. The Committee has no secretary!</p> <p>The Chief Secretary, Project Director, Commissioner/Secretary of Planning, Irrigation &amp; Flood Control of the Government of Manipur who are also members of LDA to be the members of Steering Committee is nothing but only for paper/table works (the LDA &amp; Steering Committee are of the same people in this Act).</p> <p>This Committee is empowered to make a regulation (essentially a By-Law), without powers specifically provided for it. (see Section 23)</p>
<p>23. Function of the Steering Committee:- Subject to such rules as may Be made under this Act, the function of the Steering Committee shall be to –</p> <ol style="list-style-type: none"> <li>(a) co-ordinate the activities of the concerned department at the Government level</li> <li>(b) formulate policy matters particularly financial matters for smooth functioning of the Authority and management of the lake</li> <li>(c) finalize works to be taken up</li> <li>(d) facilitate timely release of fund, etc.</li> </ol>	<p>The function of the Steering Committee is finance and works oriented indicating that it seems to be more to do with preparation of engineering or public works contracts and facilitation of their finance. Such an orientation of the Steering Committee for an Authority enacted to oversee “the administration, control, protection, improvement, conservation and development of the natural environment of the Loktak Lake and for matters connected with as incidental thereto” is towards public works or engineering. The functions, again, are non-compliant of the various objects, principles and guidelines of the Ramsar Convention, resolutions arising from the Conference of Parties, and subsidiary technical bodies and mechanisms, also elaborated under RSP3.</p>

	Further, this Steering Committee has no links or answerability in its function to the Authority, which may set it up.
<b>CHAPTER VI: FINANCE ACCOUNTS AND AUDIT OF THE AUTHORITY</b>	The Steering Committee set up under Chapter has no role or answerability related to the finance accounts and audit of the Authority, though it has been empowered to formulate financial policy, finalize works and aid flow of funds.
24. Grant from the state Government:- The State Government may, after due appropriation made by the State Legislature by law in this behalf, pay to the Authority by way of grants such sums of money as the State Government may think fit for being utilized for the purposes of Act.	<p>The “State Government may think fit” is a vague term without any due process and accountability regarding the decision making. It’s meaning and intent is not in keeping with the Act.</p> <p>The State Government should be advised about the annual grant allocations in accordance with an implementation budget that is established through 1) a participatory development and management plan; 2) a budget exercise that is fully participatory; and 3) an utilisation certification process that is transparent and accountable.</p> <p>The section is not in keeping with the participatory principles and processes established by the Convention. Nor is this provision in keeping with mission of te Authority.</p>
<p>25. Loktak Lake Development Fund :- (1) The Authority shall establish a fund to be called “Loktak Lake Development Fund” there shall be credited thereto –</p> <p>(a) all sum money gives as grants by the State Government under section 24;</p> <p>(b) Any grants or donations that may be made to the Authority by any other person/institution including external funding agencies / Central Government for the purposes of this Act.</p> <p>(2) The Loktak Lake Development fund shall be applied for meeting any other expenses, which are required to be met by the Authority.</p>	The purpose of the fund set up by the Act is not explicitly related to the management and wise-use promotion/conservation, CEP, training and other purposes in consonance with the principles and guidelines of the Ramsar Convention.
26. Preparation of annual report :- The Authority shall prepare, in such form and at such time in each Financial Year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the State Government.	The annual reports to be prepared and disseminated have not been complied with till date. Not a single report has been tabled before the State Legislature.

<p>27. Maintenance of accounts and audit: - The accounts of the Authority shall be maintained and audited in such manner as may, in consultation with the Accountant General of the State, be prescribed and the Authority shall furnish to the State Government before such date as may be prescribed, its audited copy of accounts together with Auditor's report thereon.</p>	<p>The accounting process should undergo fair, transparent social and community auditing too.</p>
<p>28. Laying of annual report and auditors report on the Table of the House: - The State Government shall cause the Annual report and Auditor's report to be laid as soon as may be after they are received, before the House of State Legislature.</p>	<p>The Legislature has yet to see such reports since the implementation of this Act. The provision in this budget has not been complied with. Transparency and participatory processes are not effectively established through this Act.</p>
<p><b>CHAPTER VII: MISCELLENIOUS</b></p>	<p>This chapter extends many arbitrary powers to the Government of Manipur, directly superseding many of the provisions in the preceding chapters of this Act. This chapter amply demonstrates that the biggest threat facing the Loktak today is the Government of Manipur and many authorities, such as some Ministries and Corporations of the Government of India, inter alia, Ministry of Power, National Hydro-electric Power Corporation Ltd. (NHPC), etc.</p>
<p>29. Power of the State Government to take measures to protect and improve the natural environment of the lake: - Subject to provisions of this Act, the State Government shall have the power to take all such measures as it deems necessary or expedient for the purpose of protecting and improving the natural environment of the lake.</p>	<p>By this provision, the Government of Manipur over-rides all the powers of the Authority enacted. How the government will formulate policy or plans and take measures to protect and improve the natural environment of the lake remains a mystery.</p>
<p>30. Power to give directions: - Notwithstanding anything contained in this Act, the State Government may, in the exercise of its powers and performances of its functions under this Act, issue such directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions.</p>	<p>This is provision similar to Section 29. The formulation of this section is confusing. It seems that, under this provision, the government can decide to direct any person from anywhere in writing to do its bidding; and the person is bound to comply with such direction! This is an absurd provision.</p>
<p>31. Right to fisheries: - The Authority may, with the approval of the State Government and by notification in the Official Gazette, declare any part of the Lake, to be a fishery, and no right in any fishery so declared shall be deemed to have been acquired by any person or group of persons, either before or after the commencement of this Act, except as provided in the rules framed under this Act.</p>	<p>By this provision, the Government of Manipur, if it so wishes, retains all powers to designate the entire wetland listed, portion by portion, as a fishery!</p> <p>The purpose and nature of such "fishery", if declared, are also unclear. No reference is made to any existing or to be formulated overall management strategy or plan for the conservation and wise use of the Loktak.</p> <p>By such declarations, ancient, well established traditional indigenous customary</p>



	<p>rights and other existing rights, such as the rights to work, health, livelihood, habitat, etc. will be extinguished. The rights of the child and of women are also jeopardized by this Act. By such denial of rights, the fundamental right to life protected by the Indian Constitution is also extinguished by this Act.</p> <p>This provision violates standards and guidelines of the Ramsar Convention, particularly those based on the recognition of indigenous peoples and local communities, their knowledge, role, their meaningful participation and consultation in the decision making, formulation of policies and execution of programmes and actions regarding the management of wetlands.</p>
<p>32. Officers to be deemed public servants :- All persons empowered to exercise powers and duties under this Act shall be deemed to be public servant within the meaning of Section 21 of the Indian Penal Code, 1866 (XIV of 1860).</p>	<p>Section 32 provides for recognition of every person employed by the LDA or functioning in a designated role under this Act as a public servant within the meaning of Section 21(9) of the Indian Penal Code (IPC). However, Section 33 protects the public servant from the purview and jurisdiction of Act II of 1947 (Prevention of Corruption Act, 1947). In other words, public servants acting under the authority of this Act are exempted from prosecution for charges of corruption, misdeeds, miscarriage of justice, etc.</p>
<p>33. Protection of Action taken in good faith: - No suit, prosecution or other legal proceeding shall lie against the State Government or any officer or other employee of the State Government or the authority constituted under this Act or any member, officer or other employee of the authority for anything which is in good faith done or intended to be done under this Act.</p>	
<p>34. Development under plan Scheme etc. :- The Authority shall, subject to previous sanction of the State Government, be competent to undertake and execute plans, Scheme protection and improvement relating to or in connection with the matter to be financed wholly or partly by the State Government or any other funding Agency.</p>	<p>The non-participation of the indigenous people of the Lake in the planning and execution of work gives negative output in all the “development” works in the Lake.</p> <p>This provision ignores the Ramsar principles of participation, consultation and consent of local communities and indigenous peoples. This problem is even bigger where local communities enjoy customary rights.</p>
<p>35. General superintendence and direction of this State Government :-</p> <p>(1) Notwithstanding any other provisions of this Act, the State Government shall have superintendence, and direction and control over the Authority in relation to the affairs and maintenance of the Lake.</p> <p>(2) The Forest and Environment Department of the Government of Manipur shall be Nodal Department.</p>	<p>By this provision, the Authority is placed under the “general superintendence and direction” of the Forest and Environment Department of the Government of Manipur. It has no direct link with the National Focal Point or the National Nodal Ministry identified by the entry of India as a Contracting Party to the Ramsar Convention.</p> <p>The Steering Committee set up under Section 22 has one member Representative of the Secretary, Ministry of Environment &amp; Forest, Government of India, New Delhi.</p> <p>The Act makes little attempt to build on the experience and knowledge developed through the association of Wetlands International - South Asia (WISA) with the</p>

	<p>LDA. In order to address the various issues plaguing the functioning of the lake and the project dependent on it, a detailed project study was instituted by the LDA &amp; WISA with funding provided by the India-Canada Environment Facility (ICEF). A Project Report titled “Sustainable Development &amp; Water Resources Management of Loktak Lake (SDWRML)” was prepared after six years of implementation (1998-2004).</p> <p>The Forest and Environment Department did nothing when there was arson in the Loktak Lake from 15-25 November 2011, which was conducted by the Authority. Arson in and around the Loktak Lake is against the customary law of the Loktak Lake dwellers but government demonstrated impunity to continued human rights violations including forced eviction and torture. Bombing and firing, resorted to by the security forces, also disturb the ecological sanctity of the wetland.</p>
<p>36. Non-application of the Act: - The provisions of this Act shall not apply to the Department of Power, State Government of Manipur dealing with electricity generation in pursuance of any Memorandum of Agreement or similar agreement entered into between the Department of Power and the National Hydro-electric Power Corporation Limited or any similar establishment.</p>	<p>Exemption from the ambit of any management plan is accorded by this provision to the recognised major threat to the ecological character of the Loktak through human intervention. In other words, authorities such as the Department of Power and the NHPC undertake activities harmful to the Loktak in the present and the future. This provision effectively nullifies the Ramsar purposes and principles vis-à-vis conservation and wise use of wetlands.</p>
<p>37. Powers of State Government to make rules :-</p> <ol style="list-style-type: none"> <li>(1) The State Government may, by notification in the Official Gazette, make rule for carrying out the purposes of this Act.</li> <li>(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for – <ol style="list-style-type: none"> <li>(a) all matters expressly required or allowed by this rules;</li> <li>(b) Any other matter which is required to be or may be prescribed.</li> </ol> </li> <li>(3) Every rule made under this Act by the State Government shall be laid as soon as may be after it is made, before the House of Manipur Legislative Assembly, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, the House agrees in making any modification in the rule, or the House agrees that the rule should not be made, the rule or bye-law shall thereafter only in such modified form or be of no effect, as the case may be, so however that any such modification or annual meet shall be without prejudice to the validity anything previously done under that rule.</li> </ol>	<p>Section 37(3) provides for exemption from prosecution or any official action for any criminal and other illegal acts of commission or neglect perpetrated under a rule made by the government of Manipur, and duly notified, even if it is struck down by the Legislature as <i>ultra vires</i>, etc. It is an impunity provision.</p>

<p>38. Power to remove difficulties :- (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may by order published in the Official Gazette, make such provision not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty. Provided that no such orders shall be made after the expiry of a period of two years from the commencement of this Act.</p> <p>(2) Every order under this section shall, as soon as may be after it is made, be laid before the Manipur Legislative Assembly.</p>	<p>This power has lapsed.</p>
<p>39. Savings, etc.:- The existing Loktak Development Authority registered under the Manipur Societies Registration Act, 1989 (Manipur Act No. 1 of 1990) shall cease to exist immediately after the commencement of this Act. However, anything done or any action taken by the Society shall be deemed to have been done or taken under this Act and the Project Director, Loktak Development Authority constituted under the society including the officers and employees shall, in so far as its functions are not inconsistent with the provision of this Act, continue to function as if it was constituted under this Act.</p> <p>(a) all actions done and decisions taken by the existing Loktak Development Authority insofar as such actions and decisions are relatable to the functions of the Loktak Development Authority constituted under this Act shall be deemed to have been taken by the Loktak Development Authority constituted under this Act.</p> <p>(b) all proceedings pending before the existing Loktak Development Authority insofar as such proceeding relate to the functions of the Loktak Development Authority, shall be deemed to have been transferred to the newly constituted Loktak Development Authority and shall be dealt with in accordance the provisions of this Act.</p> <p>(c) all assets and liabilities of the existing Loktak Development Authority be transferred to the newly constituted Loktak Development Authority.</p>	<p>The de-notified LDA, registered under the Manipur Societies Registration Act of 1989, functioned under the mission principle of “participatory processes, research and conservation activities”. Any action done under this principle could come into conflict with the newly constituted Authority, whose mandate is not guided by such a principle.</p> <p>Therefore, actions taken and processes instituted by the previous LDA could be reversed or annulled under this Act.</p>

