



## Marine fisheries regulation Act's across the coastal states in India: A critique on regulation of traditional fishers

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### Abstract

The abundance of coastal marine living resources in India has made the fisheries sector an important factor in the country's value process. Fisheries aid in economic security and contribute greatly to national income and export, social security, food and nutritional security, and employment generation. Even though a plethora of legislation addresses the issues relating to fisheries, no comprehensive legislation has been adopted concerning the protection and regulation of traditional fish workers and fishing vessels altogether. Since independence, the developments in the fisheries sector in India have been given prime importance. The past years have seen a sea of changes in the field of fisheries in India, and the need for a new fisheries act is indeed imperative. Despite the major developments and changes in the this sector, the traditional fishers who are the heart and soul of the sector are in much lower socio-economic status. Much has yet to be done in the protection, management, and legal regulation of the traditional fishers through a revamp of the Marine Fisheries Regulation Act's across the Coastal States in India.

**Keywords:** Fisheries Sector, Legislative Reforms, Marine Fisheries Regulation Acts (MFRA's), Coastal States Fisheries Regulation

### Introduction

The Fisheries sector in India is unique and diverse. The coastal stretch of India is 8118 km spread across nine coastal states and four union territories under the central government, with 33 districts and 75 fishing zones <sup>[1]</sup>. According to the FAO global statistics, India stands fourth in the production of global capture fisheries with an overall six percent of the total production. The seafood export of India has had exponential growth in the past years. During the financial year 2020-2021, India exported 11, 49,341 metric Tons of seafood worth U<sup>[2]</sup>S \$ 5.96 billion to global consumers which is equivalent to rupees 43,717 crore <sup>[3]</sup>.

The abundance of coastal marine living resources in India has made the fisheries sector an important factor in the country's value process. Fisheries aid in economic security and contribute greatly to national income and export, social security, food and nutritional security, and employment generation. It is a principal source of livelihood for the economically and socially underprivileged population spread across India's coastal zone <sup>[4]</sup>.

Much progress has been made in the form of legislative reforms, mechanization of the fishing vessels, technological innovations, welfare of fishers, and the economic organization of the fishing industry. However, the growth in the fishing industry in contrast appears to have unavoidable repercussions on the exclusive interest of the traditional fishers and their fishing grounds. The profound community interest that sustains and secures the life of the fishers against the conventional threats and challenges varies from state-to-state owing to the nature of the populace, climate, coastal area, and other related factors. This irregularity is most expressly found concerning the conflicting exclusive and inclusive interests of the stakeholders at both ends.

### Legislative Reforms in the Indian Fisheries Sector- An Overview

Under the Government of India, the central regulatory agencies contributing to fisheries management and development are the Ministry of Fisheries, Animal Husbandry & Dairying. The department came into existence after the cabinet secretariat notification of 2019. The department is responsible for policy-related matters and schemes relating to the development of Inland, Marine, and coastal Fisheries and the working of the Fisheries institutes. The department is the nodal agency for the promotion of fishing and fisheries and allied activities not limited to infrastructure development, institutional arrangements, marketing experts, Fisheries statistics, surveys, and fish stock estimation. Of prime attention are the welfare of traditional fishermen and the strengthening of their livelihoods.

It may be noted that the enactment of the Indian Fisheries Act of 1897 may be considered a milestone in the history of fisheries legislation in India. The Act was established under British colonial rule, delegating the responsibility of administration and management of fisheries within the territorial waters to its erstwhile provinces. The act empowers the constituent states of the union to decide matters related to offenses committed within the specified area. Taking a cue from the central legislation, state governments adopted the Act suiting their requirements. Currently, the Act has been repealed by the Repealing and Amending Authority Act, of 2015.

With the increase in motorization of fishing vessels and raising demand from the traditional fishers who employ unpowered fishing vessels as against the large mechanized boats increased, the need for separate legislation to protect their traditional fishing space and equipment from bottom trawlers and other foreign vessels was voiced. Following this uproar, the government appointed the Majumdar Committee in pursuance of which the Government of India

proposed a Model Bill in 1979. The Bill urged the coastal maritime states, union territories, and Archipelagos to enact legislations to regulate and manage the fishing activities in their territorial waters. The legislation thus adopted contained the rules enshrined in the Bill for the regulation of fisheries within the specified area of fishing in the coastal waters. The States of Kerala and Goa were the first to implement and enact the legislation as early as the 1980s. An overview of the MFRA is given in the forthcoming discussions.

### **Comparative Analysis of Marine Fisheries Regulation Act's across the Coastal States in India and Regulation of Traditional Fishers**

In the late 1970s violent shockwaves of conflict arose between the small-scale fishermen and the new mechanized trawl fishermen in various parts of the states, especially in the coastal areas of Kerala and Tamil Nadu <sup>[5]</sup>. The Government of India appointed the Majumdar committee to check into the matters of dispute and to form recommendations for the enactment of legislation to protect the interest of small-scale fishermen and the conservation of fish resources. In 1979 a Model Bill was circulated to all the coastal states to be enacted with appropriate modifications.

The MFRA has a very broad objective of maintaining law and order at sea by regulating the fishing vessels within the 12 nautical mile territorial waters. The Bill urged the coastal states to make, amend and enact fisheries legislation that regulates fishing activities in the territorial waters of the respective coastal states. The States of Kerala and Goa were the first to enact such legislation based on the Model Bill.

It may be noted that the MFRAs so enacted were based on the coastal conditions and other demographic features of the respective coastal State. The common gap in the MFRA is the lack of provisions enlisting the safety and security of the fishers and fishing vessels, especially the traditional and SSF sector. While most of the MFRAs provide guidelines for having safety equipment onboard the fishing vessel, it does not categorize and stipulate provisions that are compatible with the specific types of fishing vessels. It is further indicated that although the MFRA stipulates guidelines for fishing in specific areas and details the registration procedure for mechanized boats, it does not speak of the restrictions in terms of the type, gear, and number of fishing boats to be employed in the coastal waters <sup>[6]</sup>. The registration of motorized and non-motorized fishing boats is not mandatory in certain MFRAs and in the State of Kerala, the traditional non-motorized fishing boats are often kept out of the registration process <sup>[7]</sup>. The major limitation of the state-wide legislation is that most of the MFRAs across the state have not been amended to keep pace with the changes in the dynamic fisheries sector <sup>[8]</sup>.

The events of the past that dealt with the authority over access to fisheries within the territorial waters and jurisdiction over the activities ancillary thereto led to the creation of Marine Fishing Regulation Acts across the coastal states in India. More specifically, the over-expanded issue of whether the constitution vests fisheries within the territorial waters to the Central Government or whether the legislature grants the individual State Governments to frame laws concerning fisheries in the territorial waters or not <sup>[9]</sup>. These issues crossed paths with the interpretation of 'Fisheries' and the power of the state governments to make

laws concerning fisheries in the territorial waters as mentioned in the Entries of the State list and the Union list. The exclusive control and jurisdiction over the territorial waters adjacent to the coast have long been recognized to lie within the competence of the respective coastal state. The 1897 Indian Fisheries legislation also approved the same <sup>[10]</sup> on account of which the states enacted legislations complementary to their local requirements. Thus, the exclusive claim over fisheries in the territorial waters has been firmly entrenched in the State marine fishery legislation.

The States of Kerala and Goa pioneered enacting legislation based on the MFRA. The Kerala Marine Fishing Regulation Act 1980 was created as per the recommendation of the Majumdar committee and seeks to regulate fishing by all fishing vessels within the territorial coastline of the state. Fishing vessels include boats whether or not fitted with mechanical means of propulsion including catamarans, country crafts, and canoes <sup>[11]</sup>. The Act restricts the intrusion of large mechanized fishing vessels from entering into the coastal zone which is the exclusive fishing ground of the traditional fishers using traditional fishing crafts such as catamaran, country craft, and canoe <sup>[12]</sup>. The Act further mandates the registration of fishing craft under section 11 of the Central Act 1972 <sup>[13]</sup>.

The Act confers on the state government to regulate, restrict and prohibit fishing by specifying the area of fishing, the limits on the number of fishing vessels, and the catch and gear restrictions <sup>[14]</sup>. As regards exercising the powers so conferred the State has to give due regard to the rights of the traditional fishers, conserve and regulate fish and maintain law and order <sup>[15]</sup>. The Act further contains provisions related to the fishing machinery, the adjudicating authority, and the forum for adjudicating disputes.

It may be noted that the current amendment to the Kerala Marine Fisheries Regulation (Amendment) Act of 2021 has inserted the words, 'as well as fishermen in the fishing vessel' as regards the regulation of fishing vessels in the sea <sup>[16]</sup>. However, the term fishermen included in the amendment refers to those defined in the Kerala Fishermen Welfare Societies Act 1980 and the laborers who carry valid identity cards <sup>[17]</sup>. It may also be noted that the registration of traditional non-motorized fishing boats is non-mandatory and is often left out of the purview of the registration process.

The 1980 Goa, Daman, and Diu Marine Fishing Regulation Act seeks to regulate the fishing activity by all kinds of fishing vessels in the coastal limits of the Union Territory of Goa and Daman and Diu <sup>[18]</sup>. Registration of fishing vessels has to be done following the provisions of the Central Act of 1972. Presently the Act of 1980 stands amended by The Goa Marine Fishing Regulation (Amendment) Act, 2019.

The Orissa Marine Fishing Regulation Act, 1982, and Rules 1983 provide for the regulation of all categories of fishing vessels and exclusively allow the traditional fishing crafts to operate freely in the waters up to 5 km from the baseline <sup>[19]</sup>. The act prohibits fishing by any fishing registered fishing vessel beyond 24 nautical miles from its baseline. Similar zonal division is may be seen in the regulation of fisheries in West Bengal. The West Bengal Marine Fishing Regulation Act, 1993, and Rules 1995 have demarcated its territorial waters into four fishing zones and listed the class of fishing vessels that can be employed therein. This includes Zone A up to 8 kilometers from shore for non-mechanized fishing

vessels of less than 9 meters and Zone B from 8 to 20 km for vessels above 9 meters <sup>[20]</sup>. The area for mechanized fishing vessels of length to 15 meters is up from 20 -50 km and above 15 meters in length is classified in Zone D beyond 50 km from shore <sup>[21]</sup>.

However, one of the major challenges faced by the industry as pointed out by the Odisha Fisheries Policy of 2015 is not only that the industry faces lacunas in regulation and enforcement of appropriate mechanisms but also the need for modernizing the small fishing boats with modern fishing techniques and types of equipment. Apart from implementing the provision of technology transfer as reiterated in the fisheries policy of 2004, the Government seeks to strengthen the fishing industry with Public-Private investment partnerships <sup>[22]</sup>.

The Karnataka Marine Fishing (Regulation) Act, 1986, and Rules 1987 cover all the categories of fishing vessels whether fitted with mechanical means of propulsion engaged in fishing or not. It mandates the registration and licensing of fishing vessels for all categories of sea-going fishing crafts within its territorial limits. Whereas the adjacent State of Andhra Pradesh Marine Fishing (Regulation) Act 1995 and Rules 1995 regulates all fishing vessels irrespective of their categories. The act reserves 8 km from the shoreline for non-mechanized traditional and artisanal fishing vessels. The interesting feature as compared to the other states is that the Act does not mandate or provide for a restriction on the use of fishing vessels in the coastal zones. The Department of Fisheries in their regulations has specified the area demarcated for each fishing activity. This includes the reservation of the coastal waters up to 6 km from the baseline for traditional fishing crafts and the waters within 20 km but beyond 6 km from the baseline to mechanized fishing boats of 50 meters and below in length <sup>[23]</sup>. However such a distinction is not seen in the regulatory framework of Andhra Pradesh. For the only criterion is that for the operation of fishing vessels within its fixed territorial waters the fishing vessels are to comply with both registration and licensing as under section 11 of the MPEDA Act. The Department of Fisheries working under the guidance of the government has the power to make necessary regulations therein <sup>[24]</sup>.

The State of Tamil Nadu is the second highest producer or marine fishery products in India. The fishing industry is regulated by the Tamil Nadu Marine Fishing Regulation Act, 1983, and Rules 1983 which apply to all fishing vessels registered and licensed by the State government and include traditional fishing crafts as well. The act prohibits fishing by mechanical fishing vessels within 3 nautical miles from the shore, which is earmarked for small traditional crafts. Every fishing vessel so registered under the TMFRA has to be equipped with all the safety appliances as specified in the act which includes life jackets, fire extinguishers, lifebuoys, aneroid barometer, VHP communication system, suitable flares, emergency SAIL, one battery-operated transistor and the top of the wheelhouse has to be strictly painted in orange in which the vessel registration number has to be written in black. A few provisions of the principal Act stand amended by the Tamil Nadu Marine Fisheries Regulation (Amendment) Act 2000.

The Maharashtra Marine Fishing Regulation Act 1981 and Rules 1982 regulates all kinds of fishing vessel including non-motorized, motorized, and mechanized vessels engaged in fishing for profit. A specific area is allotted to the non-

motorized country crafts and the mechanized fishing vessels are prohibited to enter the waters near the shore <sup>[25]</sup>. Whereas the Gujarat Fisheries Act 2003 and Rules 2003 prohibits fishing by fishing vessels that have not adhered to registration and licensing as provided in the act and regulated by the state government. It extends to the territorial coastline of the state of Gujarat and cover all forms of fishing vessels whether mechanized or not. However, the legislation is the most recently enacted MFRA and is up for amendment in the ordinance bill of 2020. The act seeks to protect the living resources of the sea by prohibiting the use of destructive fishing practices, like the use of dynamite and explosives in fishing, as laid out in the Indian Fisheries Act of 1897. It may be noted that the key factor in the act is the establishment of the Fisheries Terminal Authority, to develop, maintain, manage, and administer fisheries harbor activities <sup>[26]</sup>.

A conclusive analysis of the MFRAs across the State indicates the different approaches to the regulation of marine fisheries in the country. Of particular interest are the efforts in the direction of protection of marine resources from over-exploitation and long-term depletion. However, most of the legislation has not been revised to include the changes in the industry. With the introduction of Technological changes in fishing vessels and gear used, there is a need to amend the current regulatory framework and provide more conclusive measures that are compatible with the changes in the industry. The motorized inboard ring seine operations, common to the State of Kerala can be compared with the mechanized fishing boats owing to the size of the vessel, the catch capacity, and the build. Yet they fall under the category of small-scale fishing vessels violating the objectives of the policy framework. The effectiveness of various regulatory mechanisms provided in the legislation in protecting all the stakeholders involved in the fisheries sector through proper enforcement is a major barrier to the regulatory system.

## Conclusion

As it stands today, heterogeneous adaptations of fishing techniques have heightened the need for new improved mechanisms that not only meets the need of the traditional fishers who are primarily involved in the vocation but also plays an important role in the socio-economic development of the community as a whole. In most cases, the traditional fisheries sector reflects the interests of the coastal states and demands more special treatment as regards management, regulation, and development. The situation is favorable to construct a new vision. There seems to be little ground for pessimism on the possibilities of the Indian Marine Fisheries Bill of 2021, but at the same time, the looming uncertainties must be resolved by involving a wider assemblage of policy settings by incorporating the needs of the fishers, fish workers and fishing vessels in India.

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15. The Goa, Daman and Diu Marine Fishing Regulation Act, 1980 and Rules, 1982 s 2. (d) "Fishing vessel" means a ship or boat, whether or not fitted with mechanical means of propulsion, which is engaged in sea fishing and includes— (if) a catamaran, (ii) a country craft and (iii) a canoe engaged in sea fishing;
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