

# Dispute Resolution of Marine Jurisdiction of Fishing Industry: An Issue of Economic and Social Concerned

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## Abstract

With the richest riverine fish gene pools, a network of hundreds of rivers, estuaries, oxbows, and flood plains, India is the second-largest fish producer in the world. Products from the fishing industry are a great source of protein and other necessary micronutrients for a healthy diet. Notably, the supply of fish food is expanding responsibly every year (with an average growth rate of 3.2% per year) because to the expansion in fish production as well as the strong and balanced distribution channel. So, the idea of recreational fishing, which involves lots of people, is expanding into a substantial industry in terms of the number of practitioners and social and economic significance. The fishing business faces numerous problems with regard to its marine jurisdiction, whether local, national, or international, and this poses a significant challenge to the sector. The main issue is inefficient administration, which leads to considerable confusion and encourages over-exploitation of marine species. Additionally, small boats are contributing to open access, common property situations that offer strong incentives for immediate exploitation. Small boats are also causing overfishing in fisheries around the world, and "small scale" fleets can be major competitors in international trade. Fishers have poorly defined and unenforced use rights for fish. Similarly, the present legal and administrative policies are only serving partially progressive marine life management which is creating challenges for fisheries management. It is proposed that fisheries management needs to be strengthened, particularly the inshore waters, further, an evaluation of the domestic and international best practices for fisheries management and coastal life should be done.

**Keywords:** Fishing Industry, Marine Fishing Management, Marine Jurisdiction, Fishery Products

## 1. INTRODUCTION

Marine fisheries are seen as valuable capital assets with the potential to produce significant and long-lasting social, economic, and environmental benefits when managed according to the right institutional, legislative, and management frameworks. India is third globally in total fish production and second in domestic aquaculture, contributing around 5% of the world's total fish production. India has a wide variety of water resources, which support a sizable fishing industry in the nation. India has a coastline of 8,118 km with an EEZ<sup>1</sup>

widening over 2.02 million km, with a continental shelf covering 0.53 million km, and the inland water sources covers more than 1, 90, 000 km and the open water bodies with a water-spread area about 40,000 hectares. The oceans are undeniably pivotal points of this contemporary and developing environmental awareness. It contributes to our food, medicines, transportation, energy, commerce, defense, and even creation. The environmental dilapidation of the oceans is a universal difficulty. Over fishing, vessel and land-based pollution, untenable and ecologically unfriendly mistreatment of

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<sup>1</sup> Exclusive Economic Zone: An **exclusive economic zone (EEZ)** is a sea **zone** prescribed by the United Nations Convention on the Law of the Sea over which a state has special rights regarding the exploration and

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use of marine resources, including energy production from water and wind, available at: <https://dof.gov.in/marine-fisheries>

mineral resources, as well as the demolition of aquatic biodiversity are the anxieties of all humankind. Fish and fishery foods signify a very valuable source of protein and important micronutrients for composed nutrition and worthy well-being.

Fisheries are a renewable natural reserve, with its own changing aspects, acted upon by different forces. An open access system of mistreatment of the resources leads to over capitalization<sup>2</sup> ensuing in diminish in the defer rates and unprofitability of operations and menacing the food security as well. However, the important sectors in Fisheries are Marine and Inland Fishery. A marine fishery is a significant sector of the India's economy which supports the livelihood of the millions of peoples (fisher-folk) inhabiting the long seashore of India. The total fish production in India's fisheries sector is in 2012 estimated 7.60 million tonnes (Government of India 2010). The marine subsector contributed approximately 39 percent of total fish production or 2.99 million tonnes<sup>3</sup>. The fisheries segment has recorded a regular annual growth rate of about four percent throughout the last five years.

## 2. OBJECTIVES OF THE RESEARCH

The main objectives of this paper are:-

- a) To discuss about the Marine jurisdiction of the fishing industry.

- b) To identify the broad arrangement and conduct of the marine fisheries sub-sector in India with respect to rural livelihoods for coastal communities;
- c) To categorize the main constraints in the marine sub-sector that are affecting biological sustainability
- d) To draw alternative policy approaches and schemes to address these issues.

## 3. FISHING INDUSTRY: AN IMPENDING INDUSTRY

Many legal issues at the national and state levels, such as open access fishery property rights systems, policy frameworks, informational gaps regarding the sustainability of key fish supplies, and limited state government capacity for control, monitoring, and surveillance, pose difficulties for managing marine fisheries (MCS). In addition to the primary production sector, the fishing and aquaculture industries provide many jobs in supporting fields like marketing, processing, manufacturing fish processing equipment, producing and supplying ice, conducting research, building boats, maintaining them, handling administrative tasks, manufacturing nets and gear, packaging, and distribution. Most of the stocks of the top ten species, which together make up about 30% of global marine capture fisheries production, are fully exploited and, as a result, do not have the potential for production increases. However, some stocks are overexploited, and production increases may be feasible if effective rebuilding plans are implemented for these stocks.<sup>4</sup>

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<sup>2</sup> The term overcapitalization refers to a situation wherein the value of a company's capital is worth more than its total assets.

<sup>3</sup> India Marine Fisheries, Issues, Opportunities and Transitions, for Sustainable Development: The World Bank, Agriculture and Rural Development Sector Unit South Asia Region, available at: <https://openknowledge.worldbank.org/bitstream/handle/10986/3002/542590ESW0whit0ries0Report00PUBLIC0.pdf?sequence=1>

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<sup>4</sup> Food and Agriculture organization of the UNs, Rome 2012, the State of World Fisheries, available at: <http://www.fao.org/docrep/016/i2727e/i2727e.pdf>

Many legal regulations addressing issues of the maritime environment, such as security of rare species, pollution, loss of biodiversity, and marine creatures, have increased as a result of the development of the law of the sea and growing concern for the oceans.

### 3.1 Development of Fishing Industry

The marine fishing sub-sector contributes just 1% of the country's GDP, but it is a vital part of the rural coastal economy, providing livelihoods, income, and food security for an estimated 3.52 million people who depend on fishing for their livelihoods along India's 8,118 km of coastline.<sup>5</sup>

There have been three recognised stages of development for the maritime subsector. Phase I was a pre-development stage (from 1945 to 1965), when mechanisation was still in its infancy and fishing was still dominated by small indigenous craft and gear. Phase II, which lasted from 1965 to 1986, saw a sharp rise in the use of synthetic gear, a focus on exports, an increase in the number of larger mechanised vessels, government investment in new fishing harbours, the introduction of purse seine harvesting, and the start of motorizing smaller, artisanal boats that could now extend their range further offshore. As concerns about the depletion of the fish supply increased, Phase III (1986–2000) was characterised by a rapid expansion of the motorization of the artisanal fleet, an expansion of offshore and extended journey fishing, and the establishment of seasonal closures of specific fisheries. A fourth phase, known as "post-2000 modernization," is currently affecting inshore areas. This phase is characterised by declining fish catches and stocks, increasing conflict

over fish resources, and higher investment requirements.

The nation is attempting to increase fishing activity in its 2.02 million km<sup>2</sup> off-shore Exclusive Economic Zone (EEZ), where there may be room for further development, at the same time.<sup>6</sup>

### 3.2 Small boats, Big Problems

In many coastal states, the traditional fishing communities are an essential component of society. The term "small-scale" fisheries are "low impact industry" could be a false, fake, and dangerous generalisation. However, in some regions, these communities need assistance to grow or to adapt to a changing world, so this bare fact does not soften or eliminate WTO regulations on subsidies to small-scale fisheries. Small-scale fishing is very common in the fishing industry, but it is not always a preferable substitute to large-scale industrial fishing. Countries who advocate for a "small-scale" exemption from the WTO's regulations on fisheries subsidies are oblivious to the cumulative sustainability effects of small-scale fishing and the frequently severe effects of overfishing in these fisheries.<sup>7</sup>

"small-scale fishing makes a significant contribution to global trade, whether the target stocks are only domestic or the small-scale fleets are moving offshore. But in so many nations, it is required by stated laws to broaden and investigate the commercial potential of small-scale companies in foreign markets. Inappropriate subsidies can also exacerbate or even cause these issues,

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<sup>5</sup> *Supra* note 4.

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<sup>6</sup> Id

<sup>7</sup> Small boats, Big Problems, Available at: [http://www.wto.org/english/forums\\_e/ngo\\_e/posp72\\_w\\_w\\_e.pdf](http://www.wto.org/english/forums_e/ngo_e/posp72_w_w_e.pdf)

according to a number of studies, which is why small-scale fishermen are seeing their profits decline”<sup>8</sup>

The World Bank and the Ministry of Agriculture, Government of India, Department of Animal Husbandry, Dairy and Fisheries have joined forces to assess the marine fisheries sub-sector, which is a part of a larger sector that also includes aquaculture and inland fisheries. Figures from the Government of India show that of the 7.60 million tonnes of fish produced nationwide, the marine subsector accounts for about 39%. The majority of freshwater aquaculture, which uses big inland agriculture water storage areas (tanks), smaller farm ponds, and reservoirs, produces 61 percent of all fish used for human consumption. India is the world's second-largest producer of inland aquaculture and third-largest producer of fish overall.<sup>9</sup>

### 3.3 Socio-economic Status of Marine Fishers

The majority of the money earned by the open access/common property resources used by India's coastal communities, which engage in both fishing and non-fishing activities, is derived from these sources. The coastal poor are not limited to one industry and switch jobs as and when needed. To supplement their family earnings, the majority of coastal residents of rural areas also work as seasonal agricultural workers, part-time farmers, or sporadic wage workers<sup>10</sup>.

Policymakers and researchers have given the topic of some of the social and environmental consequences of economic reforms and growth a lot of attention. There are many reasons to think that the coastal regions' common pool resources, which contribute significantly to the income of coastal poor communities, are deteriorating and falling. In three coastal districts of Karnataka, 16,935 hectares of productive land were lost, and 51,105 people were relocated, according to Central Water Commission (1996). All estuaries, fish breeding grounds, mangroves, etc., are to be declared CRZ-I areas, according to the CRZ notification relating to coastal protection. The state authorities have not yet accepted the coastal zone management plans as a valid document. The decline of traditional community management institutions and the absence of a strong legal framework are some of the other reasons, which made the poor stakeholders more vulnerable.

### 4. FISHERIES SUBSIDIES IN INDIA

The fishing industry receives direct and indirect subsidies from the Indian government. Direct subsidies include those provided for the purchase of boats, equipment, and engines, as well as fuel subsidies and help with aquaculture endeavours. Indirect subsidies include financial support for various welfare programmes, the building of ports, fishing harbours, and fish landing facilities, as well as the expansion of post-harvest and market infrastructure. Subsidies for post-harvest activities, infrastructure development for marine fisheries, and export subsidies are among the various things that are deemed to

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<sup>8</sup> *Id* at p. 772

<sup>9</sup> *Supra* note 4

<sup>10</sup> Ramachandra Bhatta, Socio-economic Issues in Fisheries Sector in India, P. 17, available at: [http://www.ncap.res.in/upload\\_files/workshop/wspten.pdf](http://www.ncap.res.in/upload_files/workshop/wspten.pdf)

be harmful subsidies<sup>11</sup>. The production and trade of culture and capture fisheries are supported by subsidies by the Marine Product Export Development Authority (MPEDA). The following describes a few of the schemes.

#### **4.1 Export Production - Capture Fisheries**

This programme provides financial aid for the installation of an insulated/refrigerated fish hold, a chilled sea water system (RSW), and an ice maker on mechanised fishing vessels. It also provides financial aid for converting existing fishing vessels to tuna long liners and for building new tuna long liners.

#### **4.2 Export Production - Culture Fisheries**

In the case of cultural fisheries, financial aid is provided for new farm development, small- and medium-scale hatcheries, PCR lab setup, effluent treatment systems (ETS) in shrimp farms, as well as organic shrimp and scampi farming.

#### **4.3 Induction of New Technology, Modernization of Processing Facilities and Development of Infrastructure Facilities.**

Financial support for the construction of basic facilities (new) for chilled fish and chilled tuna exports, as well as for a programme to upgrade marine product technology (TUSMP), the construction of a new, modern ice plant or the repair of an old one, financial assistance for the purchase of chilled trucks or containers, monetary support for building substantial cold storage facilities distribution of insulated fish boxes with subsidies, Under this programme,

interest subsidy support for upgrading seafood units and developmental help for exporting ornamental/aquarium fishes are both covered. Because they directly support fishing activities, many fishery development initiatives like the motorization of vessels, rebates on HSD oil, and the development of fishing harbours are classified as subsidies under the WTO.

According to the WTO definition,

“aid for fishing harbour development qualifies as an indirect subsidy. Moreover, NFDB supports fisheries through deep sea fishing, harbour development, and support for fish markets. Beneficial subsidies included the amount invested for fisheries management and services, fishery research and development and upkeep of MPAs and amounted to US \$ 2,77, 840. Fuel subsidies and financial aid given for boat construction and modernization, fishing port construction and repair, market and storage facilities, and other fishery development and support services were among the damaging subsidies.”

The total amount of subsidies was \$5,56,648 USD. According to the WTO definition, aid for fishing harbor development qualifies as an indirect subsidy. The third category, confusing or unattractive, had a total value of US \$ 1, 91,203 and featured a boat with a back and rural fisheries community development. \$10, 25, 690 was the total amount of fisheries subsidies paid out in India.

### **5. LEGAL AND INSTITUTIONAL FRAMEWORK FOR FISHING INDUSTRY**

According to the Constitution<sup>12</sup>, The State and Central governments have the power to enact

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<sup>11</sup> Aswathy N & Shyam. S. Salim, Subsidies in Indian fisheries-Methodological issues and implications for the future , available at:

[http://eprints.cmfri.org.in/9080/1/17.Aswathy\\_and\\_Shyam\\_Subsidies\\_in\\_Indian\\_fisheries.pdf](http://eprints.cmfri.org.in/9080/1/17.Aswathy_and_Shyam_Subsidies_in_Indian_fisheries.pdf)

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<sup>12</sup> The Constitution of India, 1950.



laws pertaining to forests and the preservation of wildlife. The WLPA 1972, as revised in 2002 and 2006, is the primary Central legislation pertinent for the classification of PAs as national parks, animal sanctuaries, community reserves, conservation reserves, and tiger reserves. MPAs and MCPAs<sup>3</sup>, which can be declared under any of the aforementioned five PA categories, are not specifically defined by the WLPA. Existing MPAs are currently designated as national parks or sanctuaries. Notably, MPAs in India are established for ecosystem preservation and conservation rather than fisheries management.<sup>13</sup>

The Indian Forest Act (1927), the Forest (Conservation) Act (1980, as amended in 1988), the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act (2006) and Rules (2008), also known as the Forest Rights Act (FRA), and the Environment (Protection) Act are among the other significant pieces of legislation that are relevant to managing wildlife and forest resources (1986). Except for the FRA, which falls under the Ministry of Tribal Affairs, the MoEF is the central organisation responsible for implementing the WLPA and all of the aforementioned laws.<sup>14</sup>

The Indian Fisheries Act of 1897, the Territorial Waters, Continental Shelf, Exclusive Economic Zone, and Other Maritime Zones Act of 1976, and the Maritime Zone of India (Regulation of Fishing by Foreign Vessels) Act, 1981 and Rules, 1982 make up the main legislative framework

for fisheries management. The Government of India occasionally issues policies, rules, and directives as well, however fisheries in territorial waters are a State matter and are covered by the State-list specified in the Constitution.

The National Wildlife Action Plan (2002-2016) acknowledges that local communities that have historically relied on natural biomass are responsible for protecting and conserving these resources.<sup>15</sup> It also points out the necessity and importance of updating fishing laws in various States in order to create federal fisheries legislation, which will undoubtedly improve implementation and broaden legal protection of aquatic life and ecosystems. The following step would be a new institutional framework that controls fishery management. The Ministry of Environment and Forests (MoEF)<sup>16</sup> is in charge of preserving and conserving biological variety and animals at the regional level. The MoEF's nodal agency for managing PAs at the State level is the Department of Forests. The Departments of Fisheries, which are under the control of several State governments, are in charge of managing fisheries resources through the adoption of laws and regulations as well as the welfare of fishing communities.<sup>17</sup>

It is important to note the part the Supreme Court of India plays in ensuring that the above stated legislation is put into effect. Some significant Supreme Court rulings, particularly those pertaining to the resolution of rights and activities permitted in PAs, are principally

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<sup>13</sup> Ramya Rajagopalan, Marine Protected Areas in India, available at: [http://aquaticcommons.org/1562/1/Samudra\\_mon5.pdf](http://aquaticcommons.org/1562/1/Samudra_mon5.pdf)

<sup>14</sup> *Ibid.*

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<sup>15</sup> *Id*

<sup>16</sup> Ministry of Environment and Forests (MoEF), available at: <https://moef.gov.in/en/>

<sup>17</sup> *Supra* note 14

concerned with the execution of the WLPA and the Forest (Conservation) Act, 1980<sup>6</sup>.

## **6. FISHING INDUSTRY AND ISSUES<sup>18</sup>**

Reforms are required to direct improved economic performance of the subsector, particularly for inshore waters, and address the following five major obstacles in order to take advantage of these opportunities:

### **6.1 Reforms aimed at more progressive fisheries management can only be partially built on the current legislative, legal, and administrative frameworks.**

The two main policy documents that guide central government policy on marine fisheries in India are the Five Year Plans created by the Planning Commission and the 2004 Comprehensive Marine Fishing Policy (CMFP Government of India 2004b) from the Ministry of Agriculture (which defines various desired goals and identifies schemes on which the funds are spent). Although improving the welfare of coastal fishermen is a major social policy objective, some programmes, including those that provide subsidies for fuel, boats, and equipment, may be encouraging participants to stay in an already overcapitalized business, particularly for inshore fishermen.

### **6.2 The biological and economic sustainability of marine fish stocks in India faces challenges.**

An enormous increase in fishing capacity and modifications to the make-up of fish being captured have resulted from India's recent strong economic growth and expanding global markets for fish products. Inshore marine

catch levels are stagnant and fish stock health is exhibiting some concerning indicators of depletion at the same time that fishing capacity has increased.

### **6.3 Small-scale fishermen are losing their means of subsistence and possibilities for growth, and there are currently few alternatives available.**

The current maritime fishing situation is having an effect on inshore fishermen through declining catches, declining earnings, and increasing conflicts. This is especially true for boat owners and crew who are unable to appropriately protect their resource access or who decide to relocate to newer and more remote fishing areas in the Indian EEZ. Fishers usually have low levels of education, making it difficult for them to pursue alternative professional opportunities in the nation's emerging economy.

### **6.4 Fisheries management needs to be strengthened, especially for inshore waters.**

More efficient methods are required to specify conservation and management measures and their enforcement for the waters under the control of the Indian government, between 22 km (12 nautical miles) and the 370 km (200 nautical miles) Indian EEZ. Like many other nations, India bases a substantial portion of its maritime fisheries management goals on biological considerations. Governments often only provide a basic regulatory and licencing framework for regulating fisheries in waters up to 22 kilometres from shore. It is challenging to enforce even the most basic types of laws because the bulk of state fisheries administrations lack operating patrol vessels. Because the shallow waters are

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<sup>18</sup> *Supra* note 4a

typically more productive, there is growing conflict as smaller inshore vessels and larger offshore mechanised trawlers compete for fish within the 22 km boundary.

## **7. CONCLUSION AND RECOMMENDATION**

According to past experience, important parties, including the Indian government, state governments, inshore fishermen, processors, and suitable civil society organisations, will need to devote a significant amount of time and effort to the process in order to be successful. The underlying wealth in fish resources is reflected by the resource rent, or net benefits from fishing, and reforms must be creative, adaptable, and responsive. They must also establish the right capacities and give the essential tools and knowledge. Fish stocks are typically overexploited and potential resource advantages are lost in the absence of efficient management. Because of greater stocks and better quality fish, an efficient management system can decrease investments in surplus capacity, minimise operating costs, and raise productivity and unit prices, all of which result in higher net benefits. In order to stimulate new economic activity in coastal areas, the public fisheries management agency may either capture the net benefits or capitalise them into the value of defined fishing-use rights. It is decided collectively how to produce net benefits, how to distribute benefits, and how to use benefits. Creating a fisheries management strategy based on net benefits is a long-term, difficult objective that calls for numerous intermediate stages to set the foundation for best practises. Early on, a strategy for broad stakeholder participation, education, and awareness-building must be

established, especially at the community level. This will assist overcome vested interests and enable the identification of local solutions, which is essential in the Indian setting. Also, it is crucial that programmes are planned and implemented early in order to minimise any negative effects on workers in the subsector, especially smaller operators, and to promote the growth of new, more flexible employment options. New generations in coastal fishing communities will be better able to adapt their expectations and capacities to more feasible economic opportunities outside of fishing as a result.

Millions of people rely on the marine and coastal ecosystems of India as a source of livelihood, making them a valuable natural resource. Nonetheless, there is currently increased emphasis on community engagement and co-management of natural resources in legislation, policy, and practise in line with global processes, such as the choices made under the Protected Areas Program of Work of the CBD, which have highlighted community participation. These are all unquestionably desirable trends that will lead to more participatory conservation regimes. The feeling of exclusion from decision-making among fishing villages is one factor contributing to opposition to MPAs in Malvan and the GOM. In order to manage trawling in the case of GOM and purse-seining in the case of Malvan, fishing communities have been calling for improved execution of the requirements of the MFRAs of their individual States, which make up the current fisheries legislation. The ineffective execution of current fisheries legislation threatens the livelihoods of small-scale fishing communities. If effectively implemented,



restrictions on damaging fishing methods would have positive conservation effects. The current or proposed restrictions on their comparatively low-impact fishing activities are perceived as unreasonable in this circumstance, when they believe their valid demands for better application of existing legislation are still unmet—catch the wrong end of the stick, if you will. A number of complex regulations that are difficult for communities to understand result from the lack of coordination and cooperation between the departments of forestry and fisheries. There is little question that better management and conservation of India's abundant and diverse marine and coastal resources are necessary. Yet, it is equally crucial that this be done in collaboration with regional and traditional populations that rely on these resources. Without such a well-rounded strategy, MPAs' conservation objective and the more general goal of reducing poverty cannot coexist. The development of production and transportation expenses, as well as the prices of fishery products and substitute commodities, are a few of the several challenges that may influence the sustainability and expansion of the fishing industry. Over the past 50 years, India's marine fisheries industry has experienced tremendous growth on both a qualitative and quantitative level.<sup>19</sup>

Globally, this situation calls for improved governance, more robust legal and policy frameworks, and more efficient management systems that will boost production, reduce overfishing, and increase the true value of landed fish. Although the marine fishery

business in India has a high potential capital value, it also follows international patterns and these values are not fully realised. However, a programme of reforms that is carefully pursued over a long period of time at both the national and state levels must address fundamental regulatory, legal, institutional, and fisheries management challenges in order to realise this potential, particularly for inshore waters.

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<sup>19</sup> *Supra* note 14