



DAKSHINBANGA MATSYAJIBI FORUM (DMF)

Trade Union Regn. No.20474/92. Affiliated to National Fishworkers' Forum (NFF)

Head Office: 20/4, Sil Lane, Kolkata – 70015. Phone & FAX: 033-23283989 e-mail: dmfwestbengal@gmail.com

September 19, 2019

To
The Joint Secretary (Fisheries)
Department of Fisheries,
Ministry of Fisheries, Animal Husbandry and Dairying,
Room No. 103, Krishi Bhavan,
New Delhi- 110001.

Subject: Submission on Draft “National Marine Fisheries (Regulation & Management) Bill, 2019”

Sir,

With reference to your Office Memorandum No. 21001/17/2004-Fy(Ind) Pt.V Vol.2, Dt.21.08.2019 inviting comments on the Draft “National Marine Fisheries (Regulation & Management) Bill, 2019”, we are forwarding the submission of Dakshinbanga Matsyajibi Forum (DMF) on the same.

We sincerely hope that the process initiated by publication of the Draft “National Marine Fisheries (Regulation & Management) Bill, 2019 will evolve a long demanded effective statutory instrument to protect both the livelihood of the small scale marine fishing communities and the marine fish resources.

Thanking you,

Yours sincerely,

Pradip Chatterjee,
President,
DMF

Submission of Dakshinbanga Matsyajibi Forum (DMF) on Draft ‘National Marine Fisheries (Regulation & Management) Bill, 2019’

Dakshinbanga Matsyajibi Forum (DMF) welcomes the publication of the Draft “National Marine Fisheries (Regulation & Management) Bill, 2019” and invitation of comments by the stakeholders on the same. The initiative to enact legislation on fishing in the Exclusive Economic Zone (EEZ) of the country has been long due as there has been no regulation and little management of fishing in the more than 2 million square kilometres of marine waters in Indian EEZ.

But Dakshinbanga Matsyajibi Forum (DMF) is constrained to state that publication of the Draft “National Marine Fisheries (Regulation & Management) Bill, 2019” only in English will make the common marine fishers and fish workers, who are the majority of the stakeholders, unable to go through the draft bill and offer their comments. **The draft bill must be published in all the languages of maritime states of the country and sufficient time should be provided for the fishing communities to offer their comments on it.**

For convenience the Draft “National Marine Fisheries (Regulation & Management) Bill, 2019” will be mentioned as the Draft Bill hereinafter in this document.

Some basic concerns that deserve to be addressed in the Draft Bill –

- A. Preferential access of small scale fishers to marine fish resources in the Indian EEZ in compliance with the principles of sustainable fisheries and promotion of fishers’ livelihood enshrined in the National Policy for Marine Fisheries (NPMF).
 - B. Promotion of small scale fishing in the Indian EEZ.
 - C. Penalties for violation of the provisions of the Draft Bill should be more for the larger fishing boats or their owners / operators than that for the smaller fishing boats or their owner / operators.
 - D. Dual permit regime should be avoided and there should be institutionalisation of single permit for fishing boats operating in both the territorial waters and the EEZ by the Central and concerned State/UT Governments.
 - E. In view of the commonness and integration existing in ecosystems, fish resources and fishing in both territorial and EEZ waters and also in view of the fact that small scale fishers are fishing both within and outside the territorial waters in increasing number, there should be integrated and coordinated approach among the Draft Bill and concerned State Marine Fishing Regulation Acts. This would require creation of relevant provisions in the Draft Bill and existing state Marine Fishing Regulation Acts.
 - F. The operation or implementation of the Draft Bill is largely dependent on the Fisheries Management Plan. As such preparation and adoption of Fisheries Management Plan by concerned authorities in both Central and State / UT Governments should be made a condition to the operationalisation of the Draft Bill.
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The Preamble –

“A Bill to provide for regulation and management of fisheries in the Exclusive Economic Zone of India and the high seas and for conservation and sustainable use of marine fisheries resources; maintenance of law and order in the maritime zones of India (for fishing and fishing related activities); supporting the social security, livelihoods and safety at sea of fishers and fish-workers, in particular the traditional and small-scale fishers; and for matters connected therewith and incidental thereto.”

Should be re-written as –

“A Bill to provide for regulation and management of fisheries in the Exclusive Economic Zone of India and the high seas and for conservation and sustainable use of marine fisheries resources; maintenance of law and order in the maritime zones of India (for fishing and fishing related activities) beyond territorial waters; supporting the social security, livelihoods and safety at sea of fishers and fish-workers, in particular the traditional and small-scale fishers; and for matters connected therewith and incidental thereto.”

Insertion of ‘beyond territorial waters’ is necessary as maintenance of law and order in the territorial waters is under the jurisdiction of the concerned state.

Comments by Section –

**CHAPTER I
PRELIMINARY**

Section 2. (Definitions)

Section 2 should carry a definition of “Small Scale Fisheries” and “Small Scale Fishers” as in the following –

“‘Small Scale Fisheries’ are fisheries where fishers and allied workers are directly engaged in the work in fishing mainly for their subsistence as against for commercial purpose exploiting others’ labour.’

Definition of “Small Scale Fisheries” is necessary in view of the commitment made in the preamble of the Draft Bill to support small scale fish workers’ livelihood, safety and social security as well as for the purpose of making reference to it while providing provisions for the same in the Draft Bill.

Section 2 (h) should be re-written as in the following –

“‘fisheries’ means all activities related to fishing, harvesting, pre and post harvesting including processing and selling as well as conservation and management of marine living resources;’

Insertion of ‘pre and post harvesting including processing and selling’ is necessary in view of the indispensably integral nature of these activities with fishing and also in view of the large number of workers engaged in the same.

Section 2 (j) (iii) should be re-written as in the following –
“engaging in any other activity that *inter alia* includes landing, packaging, processing, selling, transshipping, or transporting of fish that have not been previously landed at a port;”

Insertion of ‘selling’ is necessary in view of the indispensably integral nature of these activities with fishing and also in view of the large number of workers engaged in the same.

CHAPTER II
REGULATION OF FISHERIES IN THE EXCLUSIVE ECONOMIC ZONE AND
HIGH SEES

Section 3 (Prohibition of Fishing without permit. Levy of Fee, charges and exemptions)

Section 3 should carry an instruction as in the following –

“Permits for fishing will be issued to owners of fishing vessels for a particular fishing vessel and will be non-transferrable both by vessel and by person.”

This provision is necessary to preclude use of same permit for multiple fishing vessels.

Sub-section 3(2) should be re-written as –

“Permit issued under this Act shall be subject to levy of fee and charges for fishing and fishing related activities and in such manner as prescribed ensuring that the levy of fee and charges will be lower for fishing boats with lower fishing capacity and higher for fishing boats with higher fishing capacity.

Provided that Central Government may exempt any person, entity or category or class of vessel(s) from the requirement of payment of fee and charges as prescribed.”

Insertion of ‘ensuring that the levy of fee and charges will be lower for fishing boats with lower fishing capacity and higher for fishing boats with higher fishing capacity’ is necessary to ensure equity.

Section 4 (Fisheries Management Plan)

Sub-section 4(1) should be re-written as –

“The Central Government may, from time to time, after consultation, notify one or more plans for management of one or more fisheries or fishing related activities in such area(s) of the maritime zones of India as may be prescribed.

The Fisheries Management Plans should have local, state, regional and central components as and when necessary keeping in view of the integral nature of concerned fisheries with their sustainable use and conservation.

Provided that if a fisheries management plan is being made in relation to any area within the territorial waters of India, then such plan shall be formulated by the Central Government in consultation with the Government of the State or Union Territory under whose jurisdiction the relevant area of the territorial waters falls.”

Insertion of the provision for local, state, regional and central management plans is necessary for integrated implementation of the management and regulation proposed in the Draft Bill.

A new sub-section is to be inserted under section 4 after the sub-section 4(2) as –

“Fisheries management plan(s) will be prepared in participatory manner ensuring participation of all stakeholders, especially the small scale fishing communities and their organisations as may be prescribed.”

Participatory management has been an accepted guideline in the FAO VGSSF signed by India and has also been incorporated as one main basis of the National Policy on Marine Fisheries (NPMF) 2017.

A new sub-section is to be inserted under section 4 after the sub-section 4(3) as –

“Fisheries management plan(s) will ensure preferential access of small scale fishing communities to marine fish resources in the manner as may be prescribed.”

This insertion is very important to protect the livelihood of small scale fishing communities, which has been committed in the preamble to the Draft Bill.

Another new sub-section is to be inserted under section 4 after the sub-section 4(3) as –

“Fisheries management plan(s) will ensure protection of sustainable stock of fish as prescribed.”

This insertion is also very important in view of the commitment for ‘conservation and sustainable use of marine fish resources’ made in the preamble to the Draft Bill as well as the directions enshrined in CCRF 1995.

Yet, another new sub-section is to be inserted under section 4 after the sub-section 4(3) as –

“Fisheries management plan(s) will ensure protection of the livelihood interests of fishing communities in the marine protected areas.”

This insertion is also very important in view of the directions contained in the National Policy for Marine Fisheries (NPMF) 2017 regarding protection of livelihood interests of fishing communities in protected areas.

**CHAPTER III
POWERS TO BOARD, SEARCH AND SEIZURE**

Section 8 (Powers of authorised officers)

Sub-section 8 (1) should be re-written as in the following –

“Any authorized officer may, to ensure compliance with this Act, either with or without a warrant may board, search and seize a fishing vessel in any maritime zone of India, and or in the high seas as may be prescribed for fishing vessels including foreign fishing vessels”.

The insertion of ‘fishing vessels including’ is important to provide the power to board, search and seize any fishing vessel, domestic or foreign, to ensure compliance with the prescribed regulations.

**CHAPTER IV
OFFENCES AND PENALTIES**

Section 9 should begin with a sub-section that would indicate the overarching principle regarding Offences and Penalties as in the following –

“As a principle offences committed by larger fishing boats will attract more stringent penalties than offences committed by smaller fishing boats”.

This is a well accepted norm that violation of regulation by the more powerful cause larger damage than that by the less powerful and as such the former should attract more penalties. It should be a general and binding guideline for law enforcers in respect of assessment of offence and ordering penalties and may be further prescribed in concerning rules or notifications.

Imprisonment prescribed under subsections 9(6) should be re-considered in view of the India’s commitment to the UNCLOS agreement which does not allow imprisonment in the case of unlawful entry of a fishing vessel in the waters of any foreign country. The issue of the fish workers on board of trespassing fishing vessels should be dealt with compassion.

**CHAPTER V
MISCELLANEOUS**

Sub-section 12(1) which reads as –

“No Court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by an authorised officer.”

Should be deleted as it infringes upon the constitutional right of a citizen of the country to seek legal remedy to a ‘cognizable’ offence allegedly perpetrated against that person and makes the seeking of the remedy conditional to and/or dependent upon a report of an officer authorised for the purpose by the Government. It is ultravires.

Section 19 should be re-written as –

“The Central Government in coordination with the coastal States/Union Territories shall implement the provisions of ILO 188 to ensure good working conditions and other facilities for all fish workers on board fishing vessels.”

This is important in view of India’s commitment to ILO 188 Convention and its reiteration in the National Policy on Marine Fisheries (NPMF) 1917.

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