

The Indian Marine Fisheries Bill 2021

A discussion note

14 November 2021

This analysis reinforces the core demand of the small scale fish workers for the total withdrawal of the bill, with an exposé of its shortcomings and elaborates on the harmful consequences that are at variance from - and often conflicts with - its stated intent



Tamil Nadu Fishers Elected Representatives Assembly

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Tamil Nadu Fishers Elected Representatives Assembly

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Foreword

There has been a demand for a Marine Fisher Rights Act (MFRA), on the lines of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (popularly known as the Forest Rights Act, FRA), ever since the FRA came into existence. A preliminary draft by the union government was on its website for discussion. However, that died a quiet death, given that the situation of the coastal communities is very different from that of forest dwellers and there are several other issues - such as sovereignty and the high seas - that prevented a simple transposition of language. The complexities and the differences needed a fresh and comprehensive approach, something that the government did not have the stomach for, after being confronted with the onground difficulties of implementing FRA.

There was a lull for a while with the change in government, but gradually a truncated vision overtook the process. This led to draft versions of bills to regulate marine *fishing and fisheries* rather than comprehensive legislation to recognise the *rights of the marine fishing communities*. This important shift in perspective from the community to the resource to the detriment of the people led to a narrowing of ownership and alienation of the primary stakeholders from the legislative process. Some consultations to draft an Indian Marine Fisheries Bill (IMFB) were conducted. However, the proposed IMFB 2021 (22 October 2021) not only ignores most of the suggestions of the limited consultations, its provisions are against its stated intent.

The usual process of rulemaking is, at the very minimum, an approach paper, a policy note, and then a draft bill. At each stage there are several rounds of discussions and extensive consultations - with the community, their representatives, other stakeholders, and interested parties, including academe and civil society, who would often translate it into the language and idiom of the communities. Even in parliament, there would be a multi-step process spanning months before the Bill becomes an Act. All this was sought to be short circuited through a rushed introduction - consideration - and - passing

in the 2021 monsoon session of parliament. Not surprisingly, the IMFB 2021 has been rejected by the fishers, and disowned by scientists and experts.

This note is part of a multi-step process of community engagement in self-government that will a) unpack the assumptions, intentions, and long-term consequences of the Bill b) mobilise the community to draft an alternate Bill c) start a longer term process to draft a Fisher Rights Bill and d) demonstrate a community initiated, people centric rule making - from the grama sabha to the rajya sabha. This process to demystify and democratise the process of rulemaking and strengthen democratic governance is the most important desired outcome.

This note has a brief analysis of the October version of IMFB to be used as a guide of what needs to, and what should not, be included in such a bill. In the first step, it is meant to be used as a discussion note for deeper understanding of the nuances and the interlinkages of the assumptions and consequences. This understanding would feed into a decentralised process of a community originated, community centric, legislative process that incorporates the specificities of the community and the complexities of their reality in contrast to the *deus ex machina* rulemaking that brooks no discussion. It would initiate a *process* towards a people's bill, which is more important than the actual clauses in this or the proposed bill. The process will demonstrate to the state, the fisher communities and to society, how a constitutionally legitimate process towards a people's Bill should be designed and executed. It is to demonstrate an educative, inclusive, and multi-disciplinary community led and people centric process that promotes sustainability and ecosystem integrity.

Drafting the Bill by such a process will mobilise the community, and enhance their skills in rulemaking and governance. It will open them to the possibilities of engagement in governance, and the importance of the constitutional institutions of local self-government. This mass engagement will lay the foundation on which the more comprehensive Fisher Rights Bill can be crafted by the same community centric, consultative, bottom up process. We hope such a process - from the grama sabha to the rajya sabha -

will become the normalised expectation of all communities and become the institutionalised norm of rulemaking in the country.

Ideally, this process should start at the fisher community level, in every grama sabha, in every coastal village panchayat. Due to the exigencies of time and the tight deadline, it will initially be more limited. It will be an iterative process, drawing in more stakeholders benefiting from multidisciplinary advances in science while being rooted in the reality of the marine fishers. It is a small step towards developing an ocean perspective and planetary consciousness that are a prerequisite for a community centric Fisher Rights Act.

We acknowledge with gratitude the feedback on earlier critiques of IMFB 2021 by the participants at the state level consultation in Chennai, and the inputs of Pradip Chatterjee, National Convener, National Platform of Small Scale Fish Workers (NPSSFW).

Edwin

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14 November 2021

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Context

The Government of India listed for introduction, consideration, and passing the Indian Marine Fisheries Bill 2021 (IMFB 2021) in the last days of the monsoon session of the parliament (July - August 2021). The normal procedure is to introduce a Bill and then send it to a select committee for consideration to iron out the infirmities and the contentious language, and then bring it to the house again. The Government of India could not get the Bill passed in the session. But it may be put up and get hastily passed in the winter session, scheduled to start on 29 November 2021.

The Bill was supposed to provide a legal instrument to regulate and manage marine fishing in the Indian exclusive economic zone, EEZ, (200 nautical miles, 370 kilometres) beyond the territorial waters (12 nautical miles, 22 kilometres) and the high seas. However, even a cursory reading of the Bill reveals its shoddy crafting, authoritarian overreach, and administrative overkill due to which there has been widespread disapproval of the undemocratic procedure and the anti marine fishing community content of the bill.

This analysis does not take away from the core demand of total withdrawal of the Bill. It is only to further confirm its shortcomings and harmful consequences - the very antithesis of its stated intent to *‘to promote the livelihood and socio-economic well-being of traditional and small-scale fishers, to provide for the sustainable development of fisheries resources in the exclusive economic zone of India and to ensure responsible harnessing of fisheries in the high seas by the Indian fishing vessels and for matters connected therewith or incidental thereto’*.

But for the addition of *fishers and fisheries organisations and associations* in the consultative committee [Section 21(1)], there are no additional democratic provisions in the October draft. In some ways, the October version of the Bill is more pernicious than the earlier drafts. The October draft, which has four sections more (43 in the 22 October 2021 draft compared to 39 in the 23 July 2021 version), rectifies none of the deficiencies of the earlier drafts, doubles down on the infirmities, and adds new errors. Renumbering and reordering the sections is akin to putting lipstick on a pig, when this draft of the Bill takes away the boat size restriction (24 meters) for small scale fishers [Section 3(za)] the boat size restriction (24 meters) for small scale fishers mentioned in the previous draft [Old Section 3(y)] and does not add provisions for deepening democracy, and ignores local self-government institutions.

If a Bill has more than 25 clauses - this one has 41 – then it needs to have a table showing the arrangement of clauses in the beginning [Section 9(4)(a), [Manual of Parliamentary Procedures](#) in the Government of India, Ministry of Parliamentary Affairs 2018, accessed 13 November 2021]. Since it does not have that table, the October 2021 draft of the Bill is not yet in the format of a Bill to be introduced in parliament.

There is unseemly haste in drafting the bill. The differences in the 23 July 2021 and 22 October 2021 draft versions of the Bill are stark, and bear witness to the haste. Even the crafting is poor. Section 32(1), which calls for punishments *to the extent mentioned in the third, fourth and fifth columns of the following table*, and then repeats it word for word in Section 32(2), when the tables *have only four columns* would surely make even an undergraduate intern blush.

Concern I: Process

The Bill has been drafted in a totally undemocratic and opaque process. Small-scale marine fishing communities, by far the largest primary stakeholders, have been completely ignored in the process. Apart from the fact that the draft is not even available in their languages, they were not even informed that the government is going to regulate and manage their livelihood. This blatantly violates the minimum constitutional standards and ethical principles (*'nothing about us without us'*) for adoption of legislation for any section of citizens.

It is inconceivable that such an important piece of legislation, with international ramifications, would have so many infirmities if it had faithfully adhered to the Pre-legislative Consultation Policy (PLCP) that all principal and subordinate legislation, as detailed in PCLP note of 10 January 2014 [DO No11(35)/2013-LI, dated 5 February 2014] must pass through. That these fundamental flaws persist even in the second (October 2021) draft, is testimony to the lack of domain knowledge, poor drafting, and indifferent supervision. Section 9(2)(a) is clear and unambiguous that the ministry concerned *will formulate the legislative proposals in consultation with all the interests and authorities concerned* in the pre-drafting stage itself [Section 9(2)(a), [Manual of Parliamentary Procedures](#) in the Government of India, Ministry of Parliamentary Affairs 2018, accessed 13 November 2021]. The traditional small scale fishers are surely significant *interests* concerned, but they have not been consulted.

The procedure of making IMFB 2021, in ignoring the governments of nine coastal states - all but two of which are governed by non-BJP parties - has violated the constitutional principle of constructive federalism.

Concern II: Costly omissions

- a) *Sustainability*: For a Bill ostensibly for development of sustainable fishing, it is remarkably weak on the guidelines on sustainability - the balance between available resources, capacity of fishing, and application of scale subsidiarity to stop overfishing and promote sustainable small scale fishing. It is silent on using licensing of fishing boats to ensure control and reduction of the number and effort of larger fishing boats.
- b) *Biodiversity and ecosystem integrity*: The Bill barely acknowledges biodiversity and ecosystem integrity, by mentioning the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing of the Food and Agriculture Organization of the United Nations. The October draft adds the FAO/UN Code of Conduct for Responsible Fisheries in the October draft and mentions adoption of the Ecosystem Approach to Fisheries Management and Co-management and the precautionary approach but to be followed only '*wherever required*' [Section 6(3)(ii), old 3(m)].
- c) *Worker welfare*: Ostensibly *to promote the livelihood and socio-economic well-being of traditional and small-scale fisher*), it has failed to even mention migrant and crew fish workers who work on larger vessels and fishing efforts, let alone provide statutory guidelines for their welfare, and ignores the vendors who are overwhelmingly women. The bill should either promote the livelihood and socio-economic well-being of traditional and small-scale fisher - which includes women - or it should more narrowly define its objectives.
- d) *Governance*: It is in governance that the major concerns lie. The Bill omits the overarching principles of subsidiarity, participatory governance, gender justice, and inter-generational equity mentioned in

the National Policy on Marine Fisheries 2017. It is clearly overreach when it excludes the small-scale fishers from participating in drafting the Act and framing the rules. They are excluded from the bodies to be made for the execution of the proposed Act which include monitoring, control, and surveillance measures for promotion of livelihoods and socio-economic well-being of traditional and small-scale fishers, marine fisheries development and management plans, and marine fisheries policy. The community and its elected representatives are conspicuous in their absence.

Concern III: Constitutional impropriety

The National Policy for Marine Fisheries 2017 talked about subsidiarity. But this Bill is overtly centralising even in the case of law and order [Section 19(2)] which is a state subject, and education [Section 18] which is in the concurrent list. It removes even the state government - with deliberate intent - from policy [Section 4(3) in the 22 October draft which has replaced the Sections 14(2), 14(3), 14(4), and 14(5) in the 23 July draft] and from the consultative committee [Section 21(4)].

There are five areas where there is a function creep by the union government, encroaching on the rights of the states.

- a) *One* is to get into law and order which is a state subject [Section 19(4)]: *in the interest of ... maintenance of law and order or any other matter of public interest ... order the suspension or cancellation of such licence.*
- b) *Second*, to monopolise education and scientific endeavour [Section 18], which is in the concurrent list.
- c) *Third*, to monopolise the appointment of authorised officers [Section 22, 25] under this bill. Though it mentions ‘*in consultation with the state governments*’, there needs to be more safeguards for this. The victimisation and punitive transfers - instances of the former chief secretary of West Bengal and the judges dealing with sensitive cases come to mind - are reasons for caution.
- d) *Fourth*, it centralises power with the union government, referred to throughout as ‘Central Government’, to grant permission *to the state government* to issue licences *for recreational fishing, aqua-sports, marine tourism and any other activity in accordance with such terms and conditions, as prescribed* [Section 18]. When governance of territorial waters lies with the state government

according to the Constitution of India, this is clearly a power grab, surreptitiously extending to itself jurisdiction over territorial waters - the 12 nautical miles from the shoreline recognised by the United Nations Convention on the Law of the Sea (UNCLOS) as 'territorial seas' - and as being in the state list for fishing by the Constitution of India. The present Bill rides roughshod over the constitutional provision. That the legislation does not make a clear enough distinction between territorial waters and the high seas in terms of jurisdiction and applicability is another indicator of its haste and sub-par craft.

- e) *Fifth*, it excludes state governments from policy making. Though the (first) Marine Fisheries Policy can be formulated only in consultation with the state governments [Section 4(1)], modification is the sole prerogative of the union government and deliberately excludes the state governments [Section 4(3)]. This effectively means that the states will be consulted just once, and all future policies - which will be 'modifications' - can be unilaterally done by the union government.

These are not conducive to democratic federalism.

Section 42 deals with removal of difficulties and gives the union government three years to unilaterally make rules. This is constitutional immorality. Apart from not having space for the community, let alone the women, who are most impacted by this legislation, this Bill now seeks to normalise bypassing of parliament. If the Bill is drafted through consultation, and debated in parliament, then there will not be infirmities discovered so late. This clause must be rolled back to a maximum period of six months, if at all it is included.

While hoping that the law will be used for the best, it is always prudent to plan for the worst so that its misuse will not harm the community or the ecosystem.

Concern IV: Identity and licence

The bill struggles in defining what exactly it wants to do, who it is for, and what it wants to do. This lack of precision is most evident in its definitions, which has serious consequences when it comes to rights and entitlements of the fishers.

The Bill defines ‘traditional fishers’ [Section 3(ze)] as *traditional community of fishers who primarily reside in coastal areas inheriting sea fishing vocation for bonafide livelihood needs and includes artisanal fishers*; [The earlier definition, while more gender inclusive, was equally problematic: *both men and women who are traditional members or community of fishers who primarily reside in coastal areas inheriting sea fishing avocation for bonafide livelihood needs and includes artisanal fishers*]. This is a nightmare to implement on the ground. For instance, would all the Nadars of Tamil Nadu be ‘traditional fishers’ if they primarily reside in coastal areas? What if they migrated inland and returned? And if so, how long ago should they have returned, and how short should their ‘inland’ migration have been? Most importantly, the bill has no special reference to ‘traditional fishers’ other than in the definitions. As such, the mention of ‘traditional fishers’ is a red herring.

Section 15(2) of the Act says that *‘Nothing under this Act shall apply to non-motorized traditional fishing vessels’*. Yet nowhere does it define ‘traditional fishing vessels’. The omission of the definition is almost amusing. Perhaps the intent is to keep away from this definitional nightmare. Perhaps it is ignorance of if, and if so how many, ‘traditional’ fishing vessels are motorised, and how many non-motorised fishing vessels are sea going.

While India has been arguing for special and differential treatment (S&DT) in international fora, this Bill does not distinguish between small, fiber, motorised, and mechanised boats. Almost all kinds of fishing in the EEZ are designated as ‘small scale’ glossing over the

internationally recognised distinctions and definitions. So trawlers, purse seiners, and other large fishing boats can be treated as ‘small scale’. It leaves no scope for differential treatment. This denies the right of actual small-scale fishers to preferential access to fish resources and entitlements regarding finance, infrastructure, and welfare. It will also intensify conflicts between the small scale subsistence fishing and large scale commercial fishing.

It does not define ‘*bonafide livelihood needs*’. Consequently, it leads to fishing licences being a gift of the government. Section 15(1) prohibits fishing within six months of the Act being notified - yet it has not set a time limit for issuing licences by the government [Section 17]. The assurances are weak and, going by the track record, prone to misuse [Section 17(6)]. Indefinite delays for deciding when ‘*complete application as prescribed*’ is received are not a rare bureaucratic phenomenon. The principle of deemed license on application if there is no rejection within 30 days is the least that should have been inserted. The verification authority should be the elected representatives from the fisher communities - whether from local self-government or from their organisations - that is physically close to, and accessible for, the community.

The registration should be automatic and heritable with the community certificate and not time restricted. Licence renewals could be more frequent, but not more than once a year, to identify active boats. There is precedent for heritable exceptions in India: all Kodavas in Coorg can carry guns without licenses simply by virtue of community and location. That precedent can be carried over here too.

The distance limits for exclusive fishing should be periodically (and automatically) extended as technology makes greater distances possible, even beyond territorial waters, for the small-scale traditional and artisanal fish workers. Other vessels cannot operate in these exclusive zones.

Concern V: Profiling and privacy

The Bill proposes to collect socio-economic data of the community at a very granular level [Section 3(i): *'fisheries data' means information on the socio, economic, biological and environmental parameters in which fishing is conducted*]. Together with Section 7, it is a dangerous invasion of privacy for profiling and surveillance. It is not done for any other community. On the contrary, the union government is currently resisting doing a caste census in the country.

The wording of Section 7(4) *The Central Government may, by notification, delegate any or all of its functions specified under clauses (i) and (ii) of sub-section (2), to such entity or entities as it may appoint in this behalf* gives rise to the suspicion that this data would be handed over to a private agency for monetisation. [The July 2021 draft Section 11(1) was more explicit: *'and such organisations or agencies, collect all information related to fisheries [...] and shall notify the mechanisms for collection, collation, processing and dissemination of such information'*].

A 'National Repository of Information on Fisheries' of such information, which includes everything from infrastructure to socioeconomics without a guarantee of privacy in the form of data protection policy and practice, is pernicious, and against the interests of the community and good governance. The track record of the government - Aadhar data reportedly leaked to the ruling party for the elections in Puducherry - does not inspire confidence.

Section 8(1) explicitly mentions *'monitoring, control, and surveillance'* ostensibly for the *'safety and security of fishing vessels and fishermen'*. However, given the record of the government, the prescription [the earlier draft also mentioned *onboard communication, navigation and sea safety appliances including distress signaling and vessel monitoring system*] seems to be more for profiling and surveillance than the stated intent.

Section 8(3) lists the documents required for identification including, compulsorily, Aadhar. That is violative of the right to privacy, and the judgement of the Supreme Court of India. A single identification document, authenticated by the village panchayat or similar body, and issued by the state government (such as the voter ID), should suffice. No other data should be collected, and certainly not managed, by any other entity. All data collected should be for a prior informed and consented specific purpose, with no denial of any service for not providing the data. The data collected and its use should always be accessible to the person about who it is, and/or their representative..

Concern VI: Marine Fisheries Development Fund

Section 36 sets up a Marine Fisheries Development Fund. This will be set up by the union government [Section 36(3)]. This is a regression from the earlier draft which stated that this fund would be set up in consultation with the state government [Old Section 31(1)(c)]. All union and state funds should be remitted to this fund, according to this Bill [Sections 36(1), 36(1)(a), 36(1)(b), and 36(1)(c)].

However, the track record of the union government does not inspire confidence. A similar fund was made from the profits of mining for district development, primarily of the project affected tribals. Suddenly the union government took over the fund and said that only they have the right to administer it. The delays in reimbursement of the GST to the states - an ironclad constitutional requirement, and supposedly sovereign guarantee - is another reminder of the trustworthiness of the government. There is no guarantee that the same fate will not befall this Act and this community. It is also against the federal principles enshrined in the constitution.

If at all this fund is set up, it should be administered by the state government with community representation, with the union government contributing a fixed proportion on the lines of the union sponsored social security schemes. Community representation in management could be from *fishers and fisheries organisations and associations* [Section 21(1)]. The standing committee on village development could be the model, with elected representatives from fisher organisations and institutions being decision makers.

Concern VII: Presumption of guilt

Rather than treat the community as a partner in nation building and national security, Section 23 treats the fishers as terrorists, presuming criminality without justification, without government accountability for the consequences and adverse effects. In normal jurisprudence, across the world, it is for the accuser (in this case the state) to prove the guilt of the accused - at its cost. This Bill wants the fishers to prove their innocence at their cost against all established jurisprudence - making them literally pay for the costs of being jailed.

Section 23(1) authorises warrantless interception and boarding on mere suspicion - *Any authorised officer may, on being satisfied that any or reason to believe* [Section 23(5)(i)]. Section 23(5)(i) authorises the officer *to seize the documents of the vessel along with fish catch, fishing gear, equipment, stores or cargo*; The ‘reason to believe’ seizure of an Indian fishing vessel is for contravening the provisions of Section 6 (Marine Fisheries Management Plans) or Section 13 (destructive fishing) or Section 14 (juvenile fishing) or Section 15 (licence).

The Bill presumes guilt, and ensures that the process is the punishment. It places unnecessary - almost impossible - hurdles to appeal. For an appeal *to be entertained by the appellate authority, the appellant has [to], at the time of filing the appeal, deposit the amount of penalty payable under the order appealed against* [Section 27(1)]. Even if found not guilty of the charges, the vessel still has to pay the docking and other charges. In the final insult, they even have to pay for the *expenses of any sale or auction or other incidental expenses thereto* [Section 24(3)] of the fish that is by then proven to be illegally seized. The fish can be auctioned (which means low prices) and the *expenses of any sale or auction or other incidental expenses* deducted and only the balance will be paid even *on acquittal* [Section 24(3)].

Legislation should provide space for participation of fishing communities, their organisations, and representatives in every area and at every layer of adjudication, on the lines of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, Section 15A.

The Bill is not informed by the principle of scale subsidiarity in presumption, assessment, punishment, and adjudication of guilt and violations.

Concern VIII: Costs and penalties

According to this Bill, all the costs and the damages, even those directly attributable to bad decisions and mistakes by the government and its employees, must be borne by the vessel. As the irresponsible demonetisation of 8 November 2016 demonstrated, those in precarious livelihoods face permanent job loss within days when their cash flow is interrupted. The usurious interest they have to pay even during the interruption ruins them, and sets them back generations. Forced stoppage of fishing in itself causes irreparable damage to the fisher. To compel them to pay for their detention in jail is inhumane.

The costs of this '*being satisfied*' or '*reason to believe*' seizure [Section 23(5)(i)] has to be borne by the vessel, with absolutely no liability for either the official [Section 38(1)] or the government [Section 38(2)]. The costs include the cost of berth *at a notified location* and *charges as may be prescribed* [Section 23(2)]. This is explicitly mentioned for foreign vessels [Section 23(2)], and implicit for Indian vessels [Section 23(5)(ii)].

Punishment by process is normalised with no timeframe for the process, and forcing the foreign vessels [Section 23(2)] *so detained or seized [to] be subject to such charges towards docking, maintenance and upkeep of the seized vessel and the fish catch onboard including live catch* during the process, with no reimbursement, let alone restorative justice, when acquitted.

For Indian vessels, it is worse. Section 23(5)(ii) authorises the officer to *direct the master or skipper or the person in command of the vessel in writing, to berth the vessel in its notified place of berthing*. Since the vessel is notionally at 'home' in its *notified place of berthing* all costs will have to be borne by it during the process, with no time limit or liability for the official [Section 38(1)] or the government [Section 38(2)].

Concern IX: Administration of justice

There is no time limit for inquiry and reporting [Section 23(4)(d), 23(5)(iii)], adjudication [Section 24] or disposal of appeals [Section 27] by the officials. The vessel (Indian and foreign) will have to pay for the harbour charges (and crew) till it is over, when further charges can be slapped on them. The official only needs to complete the report [Section 23(4)(d), 23(5)(iii)] without any timeframe for such a report.

This is vague, and prone to misuse, more so since the vessel has to pay for its 'upkeep' while detained. In contrast, the fishers will have to appeal within thirty days or ninety days including the discretionary extended grace period [Section 27], which displays an amazing, and wilful, ignorance and disregard for the livelihood rhythm of the fishing community.

The entire adjudication process is done by the bureaucracy. A bureaucrat is asked to adjudicate the actions of another government employee [Section 26]. The courts are being kept out of the process, and bureaucrats are taking over the administration of justice. This is dangerous for the community. An impartial tribunal with a judge is preferable from a process and institutional perspective.

Concern X: Liability

Through this Bill the government shields its employees and indemnifies itself for all consequential damages. There is a free pass for the official [Section 38(1)], and no liability for the government [Section 38(2)].

Section 38(1) is the normalised indemnity to officials for acts done in good faith. Officials tasked with implementing the law must be conversant with it. Therefore the onus of proving good faith must be on them. This Bill reverses this principle of natural justice and presumes guilt of the ignorant fishers, while presuming good faith of the officials.

Section 38(2), goes further and drops all pretense about who this Bill benefits, and whom it protects. It indemnifies the government against *any damage caused, or likely to be caused, for anything which is done in good faith or intended to be done in pursuance of the provisions of this Act* and bars *any suit or other legal proceeding shall lie against the Government.*

Limited protection can be provided for the individual officials in exceptional situations, but not for the institution - otherwise it will be a case of 'nobody killed the cat'. This clause must be withdrawn. The government must be held liable for damages and losses.

The way ahead

The small-scale traditional fishing communities did not ask for such a legislation, they had no part or say in drafting it, they were not consulted on it, and they have not approved it. Therefore they have been unanimous in their total rejection of the Bill and have unambiguously called for its withdrawal.

The fishers need equitable access to the fish stock - which have been forcibly taken away by the large scale industrial fish exploiters with the connivance of the government. Therefore, the small scale marine fishing communities of the country demand –

- Immediate withdrawal of IMFB 2021.
- Initiate a process of comprehensive and inclusive consultation with the marine fishing communities and their organisations all around the country's coast to draft a Bill for managing and regulating marine fishing.
- The new Bill should be community centric, keeping the best interests of the community, including its long term sustainability, as its goal.
- Ensure availability of the draft Bill in all the languages of Indian coastal fishing communities.
- Place the Bill in the parliament only on approval of the fishing communities and their organisations after the consultative process is over.

India can do better than this, if only to align better with the symbolism of 2022 being the UN declared International Year of Artisanal Fisheries and Aquaculture (<https://undocs.org/en/a/72/L.12>),

| REVISED AND UPDATED VERSION OF THE BILL AS ON 22 October 2021 | | | | |
|---|---|------|---|---|
| THE INDIAN MARINE FISHERIES BILL, 2021 | | | | |
| A BILL | | | | |
| to promote the livelihood and socio-economic well-being of traditional and small-scale fishers, to provide for the sustainable development of fisheries resources in the exclusive economic zone of India and to ensure responsible harnessing of fisheries in the high seas by the Indian fishing vessels and for matters connected therewith or incidental thereto. | | | | |
| BE it enacted by Parliament in the Seventy-second Year of the Republic of India as follows: | | | | |
| CHAPTER I PRELIMINARY | | | | |
| Short title, extent and commencement | 1 | (1) | This Act may be called the Indian Marine Fisheries Act, 2021. | |
| | | (2) | It shall come into force on such date as the Central Government may, by notification, in the Official Gazette, appoint: | Old 1(3) Old 1(2) is now 2, 2(i) and 2(ii) |
| | | | Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision. | |
| | | | | |
| Application | 2 | | This Act shall apply to fishing and fishing related activities– | |
| | | (i) | by Indian fishing vessels in the exclusive economic zone which is the area beyond and adjacent to the territorial waters and in the high seas; and | |
| | | (ii) | by foreign fishing vessels in the maritime zones of India. | Old 2 said that this Bill would not apply to non-motorised traditional fishing vessels. Now it has been moved to Section 15(2). |

| | | | | |
|-------------|-----|---|------------|--|
| Definitions | 3. | In this Act, unless the context otherwise requires, -- | | |
| | (a) | "authorised officer" means an authorised officer notified under section 22; | | NOTE: All the 'officers' are appointed by the union government, but fisheries is a state subject. |
| | (b) | "Consultative Committee" means the Consultative Committee on Marine Fisheries constituted under section 21; | | Old 3(b) |
| | (c) | "exclusive economic zone" means the exclusive economic zone of India within the meaning of section 7 of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976; | 80 of 1976 | Old 3(c) |
| | (d) | "fish" means finfish, molluscs, crustaceans, and all other forms of marine animals and plants other than marine mammals, reptiles and sea birds; | | Old 3(d) |
| | (e) | "fisher" means any person engaged in fishing and fishing related activities for the purpose of livelihood or profit and includes a fish worker; | | Old 3(e) "fishers" means "fishermen" and "fisherwomen" engaged in fishing and fishing related activities for livelihood or profit; |
| | (f) | "fishing" means searching for or trailing or pursuing fish, catching or taking or harvesting fish by any method; | | Old 3(h) |
| | (g) | "fishing related activities" means landing, packaging, marketing, processing, preserving, or live transportation of fish, transshipping or transporting of fish that has not been previously landed at port; or any other operations; | | Old 3(i) |
| | (h) | "fisheries" means fishing and fishing related activities and includes the exploitation, conservation and management of marine fishery resources; | | Old 3(g) |

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| | (i) | "fisheries data" means information on the socio, economic, biological and environmental parameters in which fishing is conducted and is essential to the effective conservation, management and scientific understanding of the fishery resources of India; | | Old 3(j) NOTE: Collecting socio economic data at such a granular level is dangerous, and an invasion of privacy. It could lead to profiling and surveillance. |
| | (j) | "fishing vessel" means a ship or boat whether or not motorised or mechanised, that is engaged in fishing and fishing related activities at sea; | | Old 3(f) |
| | (k) | "foreign fishing vessel" means fishing vessel other than Indian fishing vessel; | | Old 3(k) |
| | (l) | "high seas" means the waters that are outside the outer limits of the exclusive economic zone, and which do not fall within the exclusive economic zone of any other country; | | Old 3(l) |
| | (m) | "Indian fishing vessel" means a fishing vessel owned by a citizen of India and registered under the provisions of the Merchant Shipping Act, 1958 or any other law for the time being in force in India; | 44 of 1958 | Old 3(m) deleted Old 3(n) |
| | (n) | "licence" means a fishing licence issued under sub-section (5) of section 17 for the purposes of fishing and fishing related activities under this Act; | | Old 3(o) |
| | (o) | "licensing authority" means the licensing authority appointed by the State Governments under their concerned marine fishing regulation laws; | | Old 3(p) |
| | (p) | "maritime zones of India" means the territorial waters of India and the exclusive economic zone of India; | | Old 3(q) |
| | (q) | "master" or "skipper" in relation to a fishing vessel, means any person having command, or charge of the fishing vessel or having the responsibility of the fishing vessel; | | Old 3(x) |

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| | (r) | "mechanised fishing vessel" means any fishing vessel with engine fitted to the hull, which uses machine power for both propulsion as well as fishing operation like casting and pulling the net, operating lines, etc.; | | new |
| | (s) | "motorised fishing vessel" means any fishing vessel that has an inboard engine fitted to the hull or outboard engine fitted temporarily outside the craft, used for propulsion; | | new |
| | (t) | "National Policy on Marine Fisheries" means the National Policy on Marine Fisheries notified under section 4; | | new |
| | (u) | "non-motorised fishing vessel" means a fishing vessel that do not use any kind of machine power for propulsion or for fishing operation; | | new Old 3(u) deleted |
| | (v) | "notification" means a notification published in the Official Gazette and the expression 'notify' shall be construed accordingly; | | Old 3(r) |
| | (w) | "operator" means the owner or the person for the time being having control and management of a fishing vessel; | | Old 3(s) |
| | (x) | "owner", in relation to a fishing vessel, means the person to whom the fishing vessel or a share in the fishing vessel belongs; Explanation.– For the purposes of this clause, "person" includes any individual or partnership or any public or private body, whether incorporated or not; | | Old 3(t) |
| | (y) | "prescribed" means prescribed by rules under this Act; | | Old 3(v) |
| | (z) | "recreational fishing" means fishing for sport or pleasure; | | Old 3(w) |
| | (za) | "small-scale fishers" means owner-operated or entrepreneurship fisheries other than large firms or companies, involving small amount of capital and energy and making single-day or multi-day fishing trips, to provide for subsistence, domestic consumption or for export; | | Old 3(y) ... means owner-operated or entrepreneurship fisheries (not by large firms or companies) using fishing |

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| | | | | vessels less than 24-meter length overall, using relatively small amount of capital and energy, making single- day or multi-day fishing trips, providing for subsistence, domestic consumption or export; |
| | (zb) | "special licence" means a licence issued under section 18; | | Old 3(z) |
| | (zc) | "State Government" means the State Government and Union territory Administration having coastal location. | | Old 3(aa) |
| | (zd) | "territorial waters" means the territorial waters of India within the meaning of section 3 of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones of India Act, 1976; | 80 of 1976 | new |
| | (ze) | "traditional fishers" means traditional community of fishers who primarily reside in coastal areas inheriting sea fishing vocation for bonafide livelihood needs and includes artisanal fishers; | | Old 3(ab) "traditional fishers" means both men and women who are traditional members or community of fishers who primarily resides in coastal areas inheriting sea fishing avocation for bonafide livelihood needs and includes artisanal fishers; NOTE: 'Bonafide livelihood needs' should be defined. Those working on factory ships can also be called 'bonafide |

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| | | | | | livelihood needs'. |
| <p style="text-align: center;">CHAPTER II SUSTAINABLE DEVELOPMENT AND MANAGEMENT OF FISHERIES RESOURCES</p> | | | | | |
| National Policy on Marine Fisheries. | 4 | (1) | The Central Government shall, after consultation with the State Governments, prepare and notify the National Policy on Marine Fisheries. | | Old 14. (1) The Central Government shall, from time to time, prepare the National Marine Fisheries Policy, in consultation with the State Governments for sustainable development of marine fisheries resources and welfare of fishers, and publish the National Marine Fisheries Policy: |
| | | (2) | The National Policy on Marine Fisheries shall lay down broad guidelines or principles for the development of marine fisheries including strategies for implementation of the provisions of this Act. | | new |
| | | (3) | The Central Government may, from time to time, review and revise the National Policy on Marine Fisheries notified under sub-section (1). | | OLD 14(1) Provided the Central Government may, from time to time, review and revise the National Marine Fisheries Policy, in consultation with the State Governments. [DELETED] |
| Marine Fisheries Development Plan. | 5 | (1) | The Central Government may, after consultation with the State Governments, prepare and notify one or more Marine Fisheries Development Plans in accordance with the National Policy on Marine Fisheries. | | Old 14 (2) The Central Government may, from time to time, in consultation with the |

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| | | | | stakeholders notify one or more Marine Fisheries Development and Management Plans in accordance with the National Marine Fisheries Policy: DELETED: Provided that if the Marine Fisheries Development and Management Plan is in relation to any area within the territorial waters of India, such plan shall be formulated in consultation with the State Government under whose jurisdiction the area of the territorial waters fall. |
| | (2) | The Marine Fisheries Development Plan shall include measures and activities towards– | | Old 14(4) elaborated |
| | | (i) | sustainable development of marine fisheries along with value chain; | |
| | | (ii) | promotion of livelihood and well being of traditional and small scale fishers | |
| | | (iii) | enhancement of fish stocks through creation of artificial reefs and sea ranching; | |
| | | (iv) | recreational fishing, aqua-sports, marine tourism and other activities aimed at promotion of additional livelihood opportunities; | |
| | | (v) | capacity building of marine fishers; | |

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| | | (vi) | development of post-harvest fisheries infrastructure as may be required for strengthening the value chain; and | | |
| | | (vii) | safety nets and security of fishers at sea. | | |
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| Marine Fisheries Management Plan. | 6 | (1) | The Central Government may, after consultation with the State Governments, prepare and notify one or more Marine Fisheries Management Plans in accordance with the National Policy on Marine Fisheries, for realising the full potential of marine fisheries. | | Partly old 14, but substantially new |
| | | (2) | The Marine Fisheries Management Plan notified under sub-section (1) shall focus on sustainable utilisation of marine fisheries resources including their conservation through adoption of such measures as may be specified therein, including— | | new |
| | | (i) | optimisation of fleet-size and fishing effort; | | new |
| | | (ii) | spatial and temporal closures; | | new |
| | | (iii) | specifying species-specific mesh size for protection of juvenile fish; | | new |
| | | (iv) | promoting area-specific and resource-specific fishing practices; | | new |
| | | (v) | reduction in by-catch and discards. | | new |
| | | (3) | Without prejudice to the provisions contained in sub-sections (1) and (2), the Central Government shall,— | | |
| | | (i) | for the purposes of sustainable and responsible utilisation of fisheries resources in the high seas by the Indian fishing vessels and for conservation and management of such resources, from time to time, specify by notification, the measures in compliance with the resolutions emerging from the international instruments and agreements to which India is a party; | | Old 17 |

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| | | (ii) | for the purposes of holistic and sustainable development of fisheries resources, and after consultation with the State Governments, specify by notification, the measures, based on the FAO Code of Conduct for Responsible Fisheries, adoption of the Ecosystem Approach to Fisheries Management and Co-management and the precautionary approach wherever required. | Partly old 14(3) The Central Government may take such other measures following the precautionary principles, as may be required for the holistic and sustainable development of fisheries resources. |
| | (4) | | Every licence holder under this Act shall comply with the measures notified under sub-sections (2) and (3). | new |
| Marine fisheries data. | 7 | (1) | The Central Government in the Department of Fisheries shall act as the National Repository of Information on Marine Fisheries. | Old Section 11(1) is elaborated in 7(1), 7(2), and 7(3), |
| | | (2) | The Central Government, in coordination with the State Governments and such organisations or agencies as it may deem necessary, shall– | NOTE: Collection of socioeconomic data of fishers is an invasion of privacy and is not done for any other community. |
| | | (i) | collect all information and data relating to fisheries, fisheries resources, fish landings, fisheries infrastructure and socio economic conditions of fishers; | |
| | | (ii) | collate, process and disseminate the information referred to in clause (i). | |
| | | (3) | The manner of collection, collation, processing and dissemination of the information referred to in sub-section (2), shall be such as may be prescribed. | |
| | | (4) | The Central Government may, by notification, delegate any or all of its functions specified under clauses (i) and (ii) of sub-section (2), to such entity or entities as it may appoint in this behalf. | Old 11(2) The Central Government may notify an entity or entities for giving effect to the activities in sub-section (1). |

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| | | | | NOTE: The language is vague. Such organisations or agencies' could mean that this data could be handed over to a private agency for monetisation. |
| Safety and security of fishers and fishing vessels. | 8 | (1) | The Central Government shall, in consultation with the State Governments, maintain a system of monitoring, control and surveillance to support fisheries management and ensure safety and security of fishing vessels and fishers at sea. | Old Section 10(1) Deleted (italic): security of fishing vessels and fishermen at sea and for the said purpose, require the owner of every fishing vessel licenced under this Act to take such measures as may be prescribed. |
| | | (2) | The Central Government, for the purposes of sub-section (1), after consultation with the State Governments, shall prescribe such measures including laying down the standards of monitoring, control and surveillance for different classes or categories of fishing vessels and their area or areas of operation. | Old 10(2) Deleted Every fishing vessel shall be fitted with onboard communication, navigation and sea safety appliances including distress signaling and vessel monitoring system appropriate to the size and type of fishing vessel as prescribed. |
| | | (3) | Every fisher and crew onboard a fishing vessel shall carry proof of his identity including Aadhaar card. | Old 10(3) Deleted: Every fishing vessel shall maintain log book and record of |

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| | | | | | <p>fishing effort and catch as prescribed.</p> <p>Old 10(4) Every fishing vessel shall carry fishing vessel registration documents, licence and fishermen and crew onboard shall carry proof of identity including Aadhaar card.</p> <p>NOTE: Though the revised version is more streamlined, it still retains the compulsion to carry the Aadhaar card which is ineffective for the purpose, intrusive, and illegal.</p> |
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| National Plan of Action on Illegal, Unreported and Unregulated Fishing. | 9. | (1) | The Central Government shall, after consultation with the State Governments, notify a National Plan of Action based on the voluntary instrument of the Food and Agriculture Organisation (FAO), namely, the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IUU Fishing). | | Old Section 12 |
| | | (2) | The National Plan of Action notified under sub-section (1) shall provide for a framework to control IUU Fishing in the exclusive economic zone and the high seas, which may include– | | Old 14 |
| | | (i) | evaluation of the scope and challenges in addressing IUU fishing; | | |
| | | (ii) | identifying the roles and functions of different management and regulatory authorities; | | |

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| | | (iii) | sensitisation of the stakeholders; and | | |
| | | (iv) | such other requirements as the Central Government may deem necessary. | | |
| | (3) | The Central Government, for the purposes of giving effect to the provisions of this section, may specify in the notification issued under sub-section (1) such measures which every licence holder under this Act shall be required to comply with. | | | |
| Support to traditional and small scale fishers. | 10 | The Central Government shall, after consultation with the State Governments, take such measures as may be prescribed, for the promotion of livelihood and socio-economic well-being of traditional and small-scale fishers including fishers operating non-motorised fishing vessels. | | | Old 15 |
| Prohibition of fishing by foreign fishing vessels. | 11 | No foreign fishing vessel shall engage in fishing or fishing related activities in the maritime zones of India under this Act. | | | Old 4 |
| Transit of foreign fishing vessel | 12 | Every foreign fishing vessel transiting through the maritime zones of India shall follow such procedure, as may be prescribed. | | | Old Section 19 |
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| Prohibition of destructive fishing. | 13 | No person shall use dynamite or any other explosive substance, poison or noxious chemicals, or destructive materials or employ any destructive methods including the use of light, to catch or destroy the fish: | | | Old section 13(1) |
| | | Provided that the use of light may be allowed in certain fishing methods as may be prescribed: | | | new |
| | | Provided further that the Central Government shall, after consultation with the State | | | Old 13(2) |

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| | | Governments, by notification, specify the explosive substance, destructive materials or methods of fishing that may be prohibited or restricted under this section. | | |
| Prohibition of juvenile fishing | 14 | (1) No person shall undertake juvenile fishing or fishing related activities in the exclusive economic zone or the high seas. | | new |
| | | (2) The Central Government shall, after consultation with the State Governments, prescribe measures to prevent juvenile fishing or fishing related activities. | | new |
| | | (3) For the purposes of this section, the Central Government shall, by notification, specify the size of different fish species that fall within the category of juvenile fish. | | new |
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| Licence for Fishing by Indian fishing vessels. | 15 | (1) On the expiry of one hundred and eighty days from the date of commencement of this Act, no Indian fishing vessels shall engage in fishing or fishing related activities in the exclusive economic zone and in the high seas without a valid licence issued under this Act. | | Old Section 5 NOTE: There is a six months duration to get the licence, after which fishing is prohibited. But there is no corresponding timeframe for the government to issue the licence in Section 17. Duties and rights must be circular. |
| | | (2) The provisions of sub-section (1) shall not apply to non-motorised fishing vessels. | | Old Section 2 |
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| Licensing authority. | 16 | The licensing authority of the State Governments shall be the licensing authority for the | | Old Section 6 |

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| | | purposes of this Act. | | |
| Conditions of licence. | 17 | (1) Any owner of an Indian fishing vessel may make an application to the licencing authority for grant of licence for fishing and fishing related activities in the exclusive economic zone, the high seas or both. | | Old Section 7. This section has changed substantially. |
| | | (2) Every application under sub-section (1) shall be in such form, contain such particulars, and be accompanied by such fees, as may be prescribed: | | Old 7(2) |
| | | Provided that different fees for licence may be prescribed in respect of different classes or categories of fishing vessels and their area or areas of operation. | | Old 7(2) |
| | | (3) The Central Government shall determine the fees for licence under sub-section (2), after consultation with the State Governments. | | Old 7(2), but the details are omitted |
| | | (4) The licence fee referred to in sub-section (2) shall be collected in such manner as may be prescribed. | | Old 3 modified |
| | | (5) The licence shall be issued in such form, manner and within such time as may be prescribed and be valid for such period as may be specified therein: | | Old 3 with modifications |
| | | Provided that nothing in this sub-section shall prevent the licencing authority from issuing a combined licence for fishing in the territorial waters and for fishing and fishing related activities in the exclusive economic zone: | | |
| | | Provided further that the licencing authority may, in the case of any person applying for fishing and fishing related activities in the exclusive economic zone who is already in possession of a valid licence for fishing in the territorial waters, instead of issuing a separate licence, extend the licence of such applicant, to fishing and fishing related activities in the exclusive economic zone, subject to fulfilling the requirements of this section. | | |
| | | (6) While issuing a licence under sub-section (5), the licencing authority shall have | | Old 4 |

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| | | | regard to,— | | |
| | | (i) | the seaworthiness and the safety and manning norms of the fishing vessel in accordance with the Merchant Shipping Act, 1958 and matters relating to maintenance of law and order or any other matter of public interest; | | |
| | | (ii) | the requirements of the measures notified under section 6; and | | |
| | | (iii) | the requirements of the measures notified under section 9. | | |
| | (7) | Any refusal to grant licence under this section shall be communicated to the applicant by an order in writing and such order may be relatable to a fishing vessel or a class or category of fishing vessels, as may be specified in the order. | | | Old 7(6) |
| | (8) | A licence granted under this Act shall not be transferrable or be assigned to, or create any interest in favour of any third party, except in such circumstances as may be prescribed. | | | Old 7(7) NOTE: The licence should be automatic and heritable with the community certificate and not time restricted. There is a precedent for this - all Kodavas in Coorg can have guns without licenses simply by virtue of community and location. That precedent can be carried over here too. |
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| Special licence for certain activities. | 18 | (1) | The Central Government may authorise the State Government to grant special licence for allowing recreational fishing, aqua-sports, marine tourism and any other activity on such terms and conditions, as may be prescribed. | | Old 16 |

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| | | (2) The Central Government may, through a special licence, allow a vessel to carry out survey, scientific research or investigation related with fisheries on such terms and conditions, as may be prescribed. | | Old 18 |
| Suspension or cancellation of licence. | 19 | (1) The licensing authority may, if there is any reasonable cause to believe that the holder of any licence has made any statement in, or in relation to, any application for the grant or renewal of such licence which is incorrect or false in material particulars, suspend or cancel the licence by order, in such manner as may be prescribed. | | Old Section 9 |
| | | (2) If any holder of a licence repeatedly fails to comply with any of the provisions of this Act, the licensing authority may suspend such licence, on third and subsequent offence. | | new |
| | | (3) No licence shall be suspended or cancelled under this section unless the holder of the licence has been given a reasonable opportunity of being heard. | | new |
| | | (4) Notwithstanding anything contained in this section, the Central Government may, in the public interest, maintenance of law and order and without prejudice to any other penalty to which the licence holder may be liable under this Act, direct the licensing authority to suspend or cancel the licence. | | Old 9(2) NOTE: Law and order is a state subject and therefore should not be brought in through the backdoor. |
| | | (5) Every person whose licence has been suspended under this section shall, immediately after such suspension, stop fishing or undertake fishing related activity in respect of which such licence was issued and shall not resume such activities until the order of suspension has been revoked in writing. | | Old 9(3) |
| | | (6) Any holder of a licence whose licence has been suspended or cancelled shall, immediately after such suspension or cancellation, surrender the licence to the | | Old 9(4) |

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| | | | licensing authority. | | |
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| Levy of charges and exemptions thereof. | 20 | (1) | Every fishing and fishing related activities under this Act shall be subject to levy of such charges as may be determined by the Central Government after consultation with the State Governments and be collected in such manner, as may be prescribed. | | Old 20(1) |
| | | | Provided that different charges may be levied for different classes or categories of fishing vessels and their area or areas of operation as may be prescribed. | | Old 20(1) |
| | | (2) | The Central Government shall, by notification, exempt non-motorised fishing vessels, motorised fishing vessels, scientific research and survey vessels and such other category of fishing vessels from the levy of charges under this section. | | Old 20(2) |
| | | (3) | The Central Government may, after consultation with the State Governments, by notification, exempt certain classes or categories of mechanised fishing vessels and such other vessels engaged in fishing related activities from the levy of charges under this section. | | Old 20(3) |
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| CHAPTER III | | | | | |
| CONSULTATIVE COMMITTEE ON MARINE FISHERIES | | | | | |
| Consultative Committee on Marine Fisheries | 21 | (1) | The Central Government shall, by notification, constitute a Consultative Committee on Marine Fisheries with representatives from the Central Government, the State Governments, fishers and fisheries organisations and associations, institutions and experts. | | Old Section 20 (only 1 clause before) The Central Government shall constitute and notify a Consultative Committee on |

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| | | | <p>Marine Fisheries in the Department of Fisheries, Government of India with representation from Centre and States including such organizations, experts and institutions for providing policy guidance on marine fisheries development, fishermen welfare and implementation of this Act</p> <p>NOTE: The elected representatives from the community are still missing, though fishers and fisheries organisations and associations are included. 'Fisheries' is a loaded term, since it can bring in the capital intensive industrial fishing sector such as the cold storage and transportation sectors also.</p> |
| | (2) | The Consultative Committee shall advise the Central Government on marine fisheries development and management, welfare of fishers and implementation of this Act. | new |
| | (3) | The composition of the Consultative Committee, the terms of its functioning including the manner of transaction of its business, shall be such as may be | new |

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| | | prescribed. | | |
| | (4) | The Central Government may from time to time constitute such number of sub-committees to aid and assist the Consultative Committee on such matters as it may deem necessary. | | new |
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| Adjudication | 24 | (1) On receipt of the report under sub-section (4) or sub-section (5) of section 23, the adjudicating authority shall hold an enquiry into the matters contained in the report thereof and initiate proceedings, in such manner as may be prescribed, after giving all the parties concerned a reasonable opportunity of being heard and give his decision thereon. | | Old 24(1) Modified NOTE: There is no time limit for the inquiry.... and the vessel will have to pay for the harbour charges (and crew) till it is over. |
| | | (2) In addition to penalty that may be imposed under this Act, if the adjudicating authority or the Magistrate of the first class or a Metropolitan Magistrate, as the case may be, is of the opinion that the fish so seized under section 23 is subject to speedy and natural deterioration, he may order such fish to be sold by public auction and the sale proceeds thereof, be kept in his safe custody. | | Old 24(2) deleted. Old 24(3) Deleted: (italic) ... and the sale proceeds thereof, after deduction of the expenses of any sale or auction or other incidental expenses relating thereto, shall be paid into the Marine Fisheries Development Fund: |
| | | (3) On the final decision of the adjudicating authority or the Magistrate of the first class or a Metropolitan Magistrate, as the case may be, the sale proceeds referred to in sub-section (2), after deduction of the expenses of any sale or auction or other incidental expenses relating thereto, shall be paid into the Marine Fisheries Development Fund or to the owner or master or skipper or any other | | Old 24(3) NOTE: The fish can be auctioned (which means low prices) and the 'expenses of any sale or auction or other |

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| | | person from whom it is seized, on acquittal. | | <p>incidental expenses' deducted and only the balance will be paid even if there is an acquittal.</p> <p>There is a free pass for the official [Section 38(1)] and no liability for the government [Section 38(2)].</p> <p>All costs, even on acquittal, have to be borne by the vessel.</p> <p>A little better than the old version, that did not return the money even on acquittal.</p> |
| | (4) | The procedure for adjudication of any violation of the terms and conditions of special licence granted under section 18, shall be such as may be prescribed. | | |
| CHAPTER IV AUTHORISED OFFICERS AND ADJUDICATION OF OFFENCES | | | | |
| Authorised officers | 22 | The Central Government, after consultation with the State Governments shall, by notification, appoint such number of authorised officers as may be specified therein, from amongst officers of the Central Government or the State Government, as authorised officers to exercise the powers and duties conferred under this Act, for such class or classes of fishing vessels or such area or areas or such activities, as may be specified therein. | | <p>Old Section 21</p> <p>NOTE: There needs to be more safeguards for this. The victimisation and punitive transfers - instances of the former chief secretary of West Bengal and the judges dealing with sensitive cases come to mind - are reasons for caution.</p> |

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| Powers of Authorised officers | 23 | (1) | Any authorised officer may, on being satisfied that any fishing vessel is being used or activity is undertaken in contravention of any provisions of this Act, or the rules or orders made or notification issued there under, either with or without a warrant– | Old 22(1) NOTE: This section is like the erstwhile TADA and present UAPA. It presumes criminality without justification, and without accountability |
| | | (a) | stop and board, and search or inspect such vessel for fish or for equipment used or capable of being used for fishing and fishing related activities; | Old 22(1)(a) NOTE: Warrantless interception or boarding on mere suspicion is dangerous - especially since the cost of the damage will have to be borne by the vessel. The government has absolutely no liability [see section 38(2)]. |
| | | (b) | require the master or skipper of such vessel to produce registration documents, log book, or any other documents relating to the vessel, documents and details of the persons onboard and examine or take copies of such documents and details thereof; | Simplified Old 22(1)(b) |
| | | (c) | examine any catch, fishing gear or equipment on board such vessel or belonging to the vessel, including any document relating thereto; | Old 22(1)(c) |
| | | (d) | make such enquiries as deem necessary to ascertain compliance with any of the provisions of this Act. | Old 22(1)(d) NOTE: The original wording was 'make such enquiries as may be necessary to ascertain compliance with any of the provisions of this Act'. Now it is 'as deem necessary' which |

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| | | | | | again increases the discretionary power of the government employee. |
| | (2) | Where the authorised officer has reason to believe that any foreign fishing vessel has committed an offence under this Act, or undertaken any illegal activity in India, he may, with or without a warrant,— | | | Old 22(3) NOTE: The vessel has to bear the cost of the officer's mistake! |
| | | (a) | seize and detain such vessel, along with gear, catch, equipment, stores or cargo found on board of such vessel or belonging to the vessel; or | | impounded has been replaced by seized. |
| | | (b) | seize and detain any fishing gear abandoned by the vessel; or | | Also replaced is and other related costs, as prescribed by: and upkeep of the seized vessel and the fish catch onboard including live catch, if any, as may be prescribed. |
| | | (c) | arrest such person who has committed the offence, | | |
| | | and command the master or operator of such seized foreign fishing vessel to bring the vessel to a port notified by the Central Government for this purpose: | | | |
| | | Provided that the vessel so detained or seized shall be subject to such charges towards docking, maintenance and upkeep of the seized vessel and the fish catch onboard including live catch, if any, as may be prescribed. | | | |
| | (3) | In taking any action against a foreign fishing vessel under sub section (2), the authorised officer may use such force as may reasonably be necessary and shall as soon as possible, inform the Central Government in writing of such seizure and detention along with the details of the person or persons arrested, and produce the arrested person or persons along with a report of the offence, before a Magistrate of the first class or a Metropolitan Magistrate for the initiation of proceedings. | | | Old 22(4) |
| | (4) | Where the authorised officer has reason to believe that an Indian fishing vessel has contravened the provisions of section 6 or sub-section (2) of section 8 or section 17, he shall prepare a report of such contravention and submit to the | | | NOTE: The vessel has to bear the cost of the officer's mistake - including 'other related costs'. |

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| | | adjudicating authority concerned for initiating proceedings and a copy of the report shall also be provided to the master or skipper or the person in command of the vessel: | | |
| | | Provided that the authorised officer shall not seize any fish catch or fishing gear for an offence under this sub-section. | | New |
| | (5) | Where the authorised officer has reason to believe that an Indian fishing vessel has contravened the provisions of section 6 or section 13 or section 14 or section 15, he shall— | | Old 22(2) Deleted: Provided that the fishing vessel so detained and impounded shall be subject to such charges towards docking, maintenance and other related costs, as prescribed. |
| | (i) | seize the documents of the vessel along with fish catch, fishing gear, equipment, stores or cargo; | | |
| | (ii) | direct the master or skipper or the person in command of the vessel in writing, to berth the vessel in its notified place of berthing; and | | |
| | (iii) | prepare a report of such contravention and submit to the adjudicating authority concerned for initiating proceedings. | | |
| | (6) | Where, in pursuance of the commission of any offence under this Act, any fishing vessel is pursued beyond the limits of the exclusive economic zone, the powers conferred on an authorised officer by this section may be exercised beyond such limits in the circumstances and to the extent recognised by international law and applicable laws of India. | | Old 22(5) |
| | (7) | The Central Government may, after consultation with the State Governments, confer, by notification, such other powers to authorised officer as it may consider necessary, to discharge the duties imposed upon the authorised officer for the purposes of Indian fishing vessels operating in the high seas. | | Modified 23 |
| | | | | |
| Adjudicatingautho | 25 | An officer of the State Government not below the rank of Assistant Director of | | Earlier Section 30. |

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| ity. | | | Fisheries of the District as may be notified by the Central Government after consultation with the State Government concerned, shall be the adjudicating authority for the purposes of adjudication of offences under sub-section (4) and sub-section (5) of section 23. | NOTE: This is a grey area. A bureaucrat is asked to adjudicate the actions of another government employee. An impartial tribunal with a judge is preferable from a process and institutional perspective. |
| Appellate authority. | 26 | | An officer not below the rank of an Additional Director (Fisheries), of the State Government as may be notified by the Central Government after consultation with the State Government concerned shall be the appellate authority for the purposes of this Act. | Old 32 NOTE: A bureaucrat is the appellate authority for the actions of another government employee. An impartial tribunal with a judge is preferable from a process and institutional perspective. |
| Appeals. | 27 | (1) | Any person aggrieved by an order of the Adjudicating Authority under section 24 may within thirty days from the date on which the order is made available to him, prefer an appeal to the appellate authority: | Old 31 |
| | | | Provided that no appeal shall be entertained by the appellate authority unless the appellant has, at the time of filing the appeal, deposited the amount of penalty payable under the order appealed against: | New NOTE: This is further burdening the appellant, and discourages the use of legal avenues, and in some cases makes it impossible to do so. |

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| | | | Provided further that the appellate authority may entertain any appeal after the expiry of the said period of thirty days but before the expiry of ninety days from the date aforesaid, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time. | | Old 31, but period extended from 60 days to 90 days. |
| | | (2) | The Appellate Authority, while deciding the appeal, shall follow such procedure, as may be prescribed. | | |
| Power of appellate authority to call for records, etc. | 28 | The appellate authority may call for and examine the records of any order passed by an adjudicating officer under this Act and against which no appeal has been preferred under section 27 for the purpose of satisfying itself as to the legality or propriety of such order or as to the regularity of the procedure and pass such order with respect thereto as it may think fit: | | | Old 33 |
| | | Provided that no such order prejudicially affecting any person shall be made except after the person so affected is given a reasonable opportunity of being heard in the matter. | | | |
| Powers of Adjudicating officer and appellate authority in relation to holding enquiry. | 29 | (1) | The adjudicating officer and the appellate authority shall while holding an enquiry have all the powers of a civil court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely:— | | Old 34 |
| | | (a) | summoning and enforcing the attendance of witnesses; | | |
| | | (b) | requiring the discovery and production of any document; | | |
| | | (c) | requisitioning any public record or copy thereof from any court of office; | | |
| | | (d) | receiving evidence on affidavits, and | | |
| | | (e) | issuing commissions for the examination of witnesses or document | | |

CHAPTER V
OFFENCES AND PENALTIES

| Penalty for contraven-tion of certain provisions of Act by foreign fishing vessels in maritime zones of India. | 30 | Any foreign fishing vessel,– | | Old 25(1) and Schedule I | | | | | | | | | | |
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| | (i) | found fishing in the maritime zones of India in contravention of section 11, may be confiscated along with its catch, gear, equipment, stores or cargo onboard and the owner or operator or master, as the case may be, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one crore rupees, or with both; | | | | | | | | | | | | |
| | (ii) | transiting through the maritime zones of India in contravention of section 12, shall be punishable with fine which shall not be less than ten lakh rupees but which may extend to twenty lakh rupees. | | | | | | | | | | | | |
| Penalty for contravention of certain provisions of Act by Indian fishing vessels in exclusive economic zone. | 31 | <p>(1) Any Indian fishing vessels engaged in fishing or fishing related activities without a valid licence in the exclusive economic zone in contravention of section 13 or section 15, shall be punishable to the extent mentioned in the third, fourth and fifth columns of the following table, with reference to the category of fishing vessels mentioned in the second column for the offences mentioned in the first column, respectively,–</p> <p style="text-align: center;">Table</p> <table> <tr> <th>Offences</th><th>Category of fishing vessel</th><th>Penalty on first offence</th><th>Penalty on second offence</th><th>Penalty on third and subsequent offence</th></tr> <tr> <td>(1)</td><td>(2)</td><td>(3)</td><td>(4)</td><td>(5)</td></tr> </table> | Offences | Category of fishing vessel | Penalty on first offence | Penalty on second offence | Penalty on third and subsequent offence | (1) | (2) | (3) | (4) | (5) | | Old 25(2) and Schedule II A |
| Offences | Category of fishing vessel | Penalty on first offence | Penalty on second offence | Penalty on third and subsequent offence | | | | | | | | | | |
| (1) | (2) | (3) | (4) | (5) | | | | | | | | | | |

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| | | | Sections 13 and 15. | Motorised vessels of less than 15 m overall length (OAL) | Nil | Nil | Fine of two thousand rupees | | |
| | | | | Motorised vessels of 15m OAL and above | Fine of two thousand rupees | Fine of five thousand rupees | Fine of ten thousand rupees | | |
| | | | | Mechanised vessels of less than 15m OAL | Fine of five thousand rupees | Fine of ten thousand rupees | Fine of twenty-five thousand rupees | | |
| | | | | Mechanised vessels of 15 m OAL and above | Fine of ten thousand rupees | Fine of twenty thousand rupees | Fine of fifty thousand rupees | | |
| | (2) | Any Indian fishing vessel engaged in fishing or fishing related activities in the exclusive economic zone in contravention of the measures prescribed under section 6 or sub-section (2) of section 8 or section 17, shall be punishable to the extent mentioned in the third, fourth and fifth columns of the following table, with reference to the category of fishing vessels mentioned in the second column, for the offences mentioned in the first column, respectively,– Table | | | | | | Old Schedule II B | |

| | | | <table><tr><th>Offences</th><th>Category of fishing vessel</th><th>Penalty on first offence</th><th>Penalty on second offence</th><th>Penalty on third and subsequent offence</th></tr><tr><th>(1)</th><th>(2)</th><th>(3)</th><th>(4)</th><th>(5)</th></tr><tr><td>Sections 6, 8(2) and 17.</td><td>Motorised vessels of less than 15 m overall length (OAL)</td><td>Nil</td><td>Nil</td><td>Fine of one thousand rupees</td></tr><tr><td></td><td>Motorised vessels of 15m OAL and above</td><td>Fine of one thousand rupees</td><td>Fine of two thousand rupees</td><td>Fine of five thousand rupees</td></tr><tr><td></td><td>Mechanised vessels of less than 15m OAL</td><td>Fine of three thousand rupees</td><td>Fine of five thousand rupees</td><td>Fine of ten thousand rupees</td></tr><tr><td></td><td>Mechanised vessels of 15 m OAL and above</td><td>Fine of five thousand rupees</td><td>Fine of ten thousand rupees</td><td>Fine of twenty thousand rupees</td></tr></table> | Offences | Category of fishing vessel | Penalty on first offence | Penalty on second offence | Penalty on third and subsequent offence | (1) | (2) | (3) | (4) | (5) | Sections 6, 8(2) and 17. | Motorised vessels of less than 15 m overall length (OAL) | Nil | Nil | Fine of one thousand rupees | | Motorised vessels of 15m OAL and above | Fine of one thousand rupees | Fine of two thousand rupees | Fine of five thousand rupees | | Mechanised vessels of less than 15m OAL | Fine of three thousand rupees | Fine of five thousand rupees | Fine of ten thousand rupees | | Mechanised vessels of 15 m OAL and above | Fine of five thousand rupees | Fine of ten thousand rupees | Fine of twenty thousand rupees | |
|--|--|-------------------------------|---|--|----------------------------|--------------------------|---------------------------|---|-----|-----|-----|-----|-----|--------------------------|--|-----|-----|-----------------------------|--|--|-----------------------------|-----------------------------|------------------------------|--|---|-------------------------------|------------------------------|-----------------------------|--|--|------------------------------|-----------------------------|--------------------------------|--|
| Offences | Category of fishing vessel | Penalty on first offence | Penalty on second offence | Penalty on third and subsequent offence | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| (1) | (2) | (3) | (4) | (5) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sections 6, 8(2) and 17. | Motorised vessels of less than 15 m overall length (OAL) | Nil | Nil | Fine of one thousand rupees | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Motorised vessels of 15m OAL and above | Fine of one thousand rupees | Fine of two thousand rupees | Fine of five thousand rupees | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Mechanised vessels of less than 15m OAL | Fine of three thousand rupees | Fine of five thousand rupees | Fine of ten thousand rupees | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Mechanised vessels of 15 m OAL and above | Fine of five thousand rupees | Fine of ten thousand rupees | Fine of twenty thousand rupees | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Penalty for contravention of certain provisions of Act by Indian fishing vessels | 32 | (1) | Any Indian fishing vessels engaged in fishing or fishing related activities without a valid licence in the high seas in contravention of section 13 or section 15, shall be punishable to the extent mentioned in the third, fourth and fifth columns of the following table, with reference to the category of fishing vessels mentioned in the second column for the offences mentioned in the first column, respectively,— Table | Old Schedule II A NOTE: As anyone can see, there is no 'fifth column' in this table. This is a good example of the haste in which this entire Bill is written and rewritten. In the | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

| in high seas. | | | <table><tr><th>Offences</th><th>Category of fishing vessel</th><th>Penalty on first offence</th><th>Penalty on second and subsequent offence</th></tr><tr><th>(1)</th><th>(2)</th><th>(3)</th><th>(4)</th></tr><tr><td rowspan="2">Sections 13 and 15.</td><td>Mechanised vessels of less than 15 m OAL</td><td>Fine of twenty-five thousand rupees</td><td>Fine of fifty thousand rupees and impounding of vessel for a period of thirty days</td></tr><tr><td>Mechanised vessels of 15 m OAL and above</td><td>Fine of fifty thousand rupees</td><td>Fine of two lakh rupees and impounding of vessel for a period of thirty days</td></tr></table> | Offences | Category of fishing vessel | Penalty on first offence | Penalty on second and subsequent offence | (1) | (2) | (3) | (4) | Sections 13 and 15. | Mechanised vessels of less than 15 m OAL | Fine of twenty-five thousand rupees | Fine of fifty thousand rupees and impounding of vessel for a period of thirty days | Mechanised vessels of 15 m OAL and above | Fine of fifty thousand rupees | Fine of two lakh rupees and impounding of vessel for a period of thirty days | earlier draft, these tables were in the four schedules. |
|---------------------|--|--|---|----------|----------------------------|--------------------------|--|-----|-----|-----|-----|--|--|-------------------------------------|--|--|-------------------------------|--|---|
| Offences | Category of fishing vessel | Penalty on first offence | Penalty on second and subsequent offence | | | | | | | | | | | | | | | | |
| (1) | (2) | (3) | (4) | | | | | | | | | | | | | | | | |
| Sections 13 and 15. | Mechanised vessels of less than 15 m OAL | Fine of twenty-five thousand rupees | Fine of fifty thousand rupees and impounding of vessel for a period of thirty days | | | | | | | | | | | | | | | | |
| | Mechanised vessels of 15 m OAL and above | Fine of fifty thousand rupees | Fine of two lakh rupees and impounding of vessel for a period of thirty days | | | | | | | | | | | | | | | | |
| | (2) | Any Indian fishing vessels engaged in fishing or fishing related activities in contravention of clause (i) of sub-section (3) of section 6 in the high seas, shall be punishable to the extent mentioned in the third, fourth and fifth columns of the following table, with reference to the category of fishing vessels mentioned in the second column, for the offences mentioned in the first column, respectively,— Table <table><tr><th>Offences</th><th>Category of fishing vessel</th><th>Penalty on first offence</th><th>Penalty on second and subsequent offence</th></tr><tr><th>(1)</th><th>(2)</th><th>(3)</th><th>(4)</th></tr></table> | | Offences | Category of fishing vessel | Penalty on first offence | Penalty on second and subsequent offence | (1) | (2) | (3) | (4) | Old Schedule II B NOTE: Obviously, there is no 'fifth column' in this table either. | | | | | | | |
| Offences | Category of fishing vessel | Penalty on first offence | Penalty on second and subsequent offence | | | | | | | | | | | | | | | | |
| (1) | (2) | (3) | (4) | | | | | | | | | | | | | | | | |

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| | | | | Sections 13 and 15. | Mechanised vessels o f less than 15 m OAL | Fine of twenty-five thousand rupees | Fine of fifty thousand rupees and impounding of vessel for a period of thirty days | | | |
| | | | | | Mechanised vessels of 15 m OAL and above | Fine of fifty thousand rupees | Fine of two lakh rupees and impounding of vessel for a period of thirty days | | | |
| Penalty for violation of terms and conditions of special licence. | 33 | If any Indian fishing vessel fails to comply with the terms and conditions of the special licence granted under section 18, the owner or operator of such vessel shall be punishable with fine which may extend to one lakh rupees along with suspension or cancellation of the licence. | | | | | | | Old 25(3) | |
| Penalty for obstruction of authorised officers. | 34 | (1) | If any person intentionally obstructs an authorised officer in the exercise of his powers, he shall be punishable– | | | | | | Old 26 | |
| | | (i) | in the case of Indian fishing vessel of less than 15 meter overall length, with fine of five thousand rupees and ten thousand rupees in case of 15 meter overall length and above; | | | | | | | |
| | | (ii) | in the case of foreign fishing vessel, with fine which may extend to five lakh rupees. | | | | | | | |
| Offences by companies | 35 | (1) | Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, or was responsible | | | | | | | Old 27(1) |

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| | | | to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: | | |
| | | | Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence. | | Old 27(1) |
| | | (2) | Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. | | Old 27(2) |
| | | | | | |
| CHAPTER VII MISCELLANEOUS | | | | | |
| Constitution of Fund. | 36 | (1) | There shall be a Fund to be called the Marine Fisheries Development Fund and there shall be credited thereto— | | Old section 8. NOTE: This is a little dangerous, since the track record of the union government does not inspire confidence. A similar fund was made from the profits of mining to develop the tribals. Suddenly the union |
| | | | (a) any grants or loans that may be made by the Central Government for the purposes of this Act; | | |
| | | | (b) all receipts collected under this Act; and | | |
| | | | (c) any grants or loans that may be made by any State Government or institution for the purposes of this Act. | | |

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| | | (2) | The Fund shall be utilised for the welfare of fishers including traditional fishers operating non-motorised fishing vessels and for sustainable development and management of marine fisheries and related activities, as may be prescribed. | | government took over the fund and said that only they have the right to administer it. |
| | | (3) | The Central Government shall, by notification, appoint an entity to maintain and administer the Fund. | | |
| | | | | | |
| Offences to be cognizable. | 37 | Notwithstanding anything contained in the Code of Criminal Procedure, 1973, offences punishable under section 28 shall be cognizable. | | | 1 of 1974 New Section (old 28, but without the sub sections). Removes section 29 that kept the courts out. |
| Protection of action taken in good faith | 38 | (1) | No suit, prosecution or other legal proceeding shall lie against the authorised officer or any officer appointed as the adjudicating authority or the appellate authority, for anything which is done in good faith or intended to be done in the discharge of his duty in pursuance to the provisions of this Act. | | Old 35(1) NOTE: Officials tasked with implementing the law must be conversant with it. Therefore the onus of proving good faith must be on them. |
| | | (2) | No suit or other legal proceeding shall lie against the Government for any damage caused, or likely to be caused, for anything which is done in good faith or intended to be done in pursuance of the provisions of this Act. | | Old 35(2) NOTE: Protection is for the individual officials, not for the institution - otherwise it will be a case of 'nobody killed the cat'. The government must be held liable for damages and losses. This clause must be withdrawn. |
| | | | | | |
| Power to make | 39 | (1) | The Central Government after consultation with the State Government may, by | | Old 36(1) |

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| rules | | | notification, make rules for carrying out the provisions of this Act.- | NOTE: There needs to be scope for community participation in this, especially of the women. |
| | | (2) | In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:- | Old 36(1) NOTE: The subsection on the utilisation and administration of the development fund Old 36(1)(b) and (c) are missing, as also (e), (i), (l), (m) and(n) |
| | | (a) | the manner of collection, collation, processing and dissemination of the information under sub-section (3) of section 7; | new |
| | | (b) | measures for the promotion of livelihood and socio-economic well being of traditional and small-scale fishers including fishers operating non-motorised fishing vessel under section 10; | Old 36(1)(f) |
| | | (c) | procedure to be followed by foreign fishing vessels transiting through the maritime zones of India under section 12; | Old 36(1)(g) |
| | | (d) | fishing methods in respect of which use of light may be allowed under section 13; | new |
| | | (e) | the form, particulars and fees under sub-section (2), manner of collecting fees under sub-section (4), the form, manner and time within which licence may be issued under sub-section (5) and exceptional circumstances under which licence may be transferred under subsection (8), of section 17; | Old 36(1)(a) |
| | | (f) | the terms and conditions of special licence under sub-sections (1) and (2) of 18; | Old 36(1)(h) |

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| | | (g) | the manner of suspension and cancellation of licence under sub section (1) of section 19; | | Old 36(1)(d) |
| | | (h) | the charges to be levied and manner of its collection under sub section (1) of section 20; | | |
| | | (i) | the composition of the Consultative Committee and terms of its functioning under sub-section (3) of section 21; | | new |
| | | (j) | the charges to be levied on the foreign fishing vessels detained under sub-section (2) of section 23; | | new |
| | | (k) | manner of enquiry and initiating proceedings by the adjudicating authority under sub-section (1) and procedure for adjudication under sub-section (4), of section 24; | | Old 36(1)(k) |
| | | (l) | the procedure for deciding appeal by the Appellate Authority under sub-section (2), of section 27; | | new |
| | | (m) | the marine fisheries related activities under sub-section (2) of section 33; | | new |
| | | (n) | any other matter which is to be, or may be prescribed. | | Old 36(1)(o) NOTE: Missing '... by rules under this Act'. |
| | | | | | |
| Rules and notifications made or issued to be laid before Parliament. | 40 | Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament 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, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such | | | new |

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| | | modification or annulment shall be without prejudice to the validity of anything previously done under that rule. | | |
| Effect of Act 80 of 1976 | 41 | The provisions of sub-section (5) of section 7 of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976 shall have no effect for the purposes of this Act. | 80 of 1976 | Old 37 |
| Removal of difficulties | 42 | (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removing the difficulty: | | Old 38 NOTE: Three years is an admission of poor drafting. If the Bill is drafted through consultation, and debated in parliament, then there will not be infirmities discovered so late. |
| | | Provided that no such order shall be made under this section after the expiration of three years from the date of commencement of this Act. | | |
| | | (2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament. | | new |
| Repeal and savings | 43 | (1) The Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Act, 1981, is hereby repealed. | 42 of 1981 | Old 39(1) |
| | | (2) Notwithstanding such repeal, anything done or any action taken under the Act so repealed, including any notification, order, appointment, certificate, notice, or receipt issued, application made, or licence granted, which is not inconsistent with the provisions of this Act shall be deemed to have been done or taken under the corresponding provisions of this Act. | | Old 39(2) |

