



NATIONAL FEDERATION OF SMALL-SCALE FISHWORKERS

Submission on
The Draft Odisha Marine Fishing Regulation (Amendment) Act, 2024
by
The National Platform for Small-Scale Fishworkers
&
The Odisha Small Scale Fish Workers' Union

The National Platform for Small-Scale Fishworkers (NFSF) and its affiliate the Odisha Small Scale Fish Workers' Union (OSSFWU) submit their comments and suggestions on the **Draft Odisha Marine Fishing Regulation (Amendment) Act, 2024** in the following lines –

A. Regarding the Procedure of finalizing the Draft Amendment Act:

The procedure followed in finalizing the Amendment Act shows bureaucratic cynicism regarding stakeholder participation.

1. *Language of Publication of the draft Amendment Act* – The most important stakeholders of the amendments to the Orissa Marine Fishing Regulation Act 1981 by both number and relevance are the small scale marine fishworkers of Odisha. The small scale marine fishworker communities of Odisha have three major language groups – Odia, Telegu and Bengali. The draft Amendment Act has been published only in English, thereby precluding the scope of the small-scale marine fishing communities of the state to know its contents.
2. *Ensuring Public/Community Consultations* – Most of the common fish workers and their representatives are not internet savvy. If the Fisheries Directorate of the Government of Odisha really intended to collect the opinions of the small scale marine fishworkers of Odisha, they should have reached out to them and held sufficient number of community consultations on the draft Amendment Act.

This is in gross contradiction with the instructions contained in the Pre-Legislative Consultative Policy (PLCP) dated 05.02.2014 issued by the Ministry of Law and Justice, Government of India.

We demand immediate publication of the draft Amendment Act in Odia, Telegu and Bengali and holding of sufficient numbers of community consultations with the marine small-scale fish workers of Odisha before finalizing the draft Amendment Act.

B. Regarding the Contents of the Draft Amendment Act:

The Government of India has adopted a National Policy on Marine Fisheries in 2017. The national policy avowedly based itself on seven pillars, namely *sustainable development, socio-economic upliftment of fishers, principle of subsidiarity, partnership, inter-generational equity, gender justice and precautionary approach*. It is expected that the draft Amendment Act would be guided by these principles and the amendments proposed will enhance implementations of these principles.



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Sec.2 Definition:

Sec.2(d)-(dc)&(db)> Under Section 2 (d) at (dc) the “Motorized country craft” is defined as “a wooden or Fiber Reinforced Plastic (FRP) boat of OAL not more than 12 mtrs and fitted with Outboard Motor (OBM) or Inboard Motor (IBM) Engine having maximum capacity of 30 HP”; and at (db) “Mechanized fishing vessel” is defined as “any fishing vessel with engine fitted to the haul, which uses machine power for both propulsion as well as fishing operations like casting and pulling the net, operating the lines, etc and having an engine of not less than 30 HP but not more than 240 HP and measuring in OAL between 10 mtrs and 20mtrs.i.e not less than 10 mtrs and less than 20 mtrs, but doesn’t include Deep Sea Fishing Vessel”.

In Odisha there is a large number of boats having more than 30HP engine but not equipped with machine power for casting or pulling of nets. The draft Amendment Act fails to put them in any defined category. This is a serious lapse and will affect management of marine fisheries by the instant Amendment Act.

Sec.2(f)-(fb)> “fish landing centre” means landing place where landing or berthing facilities have been provided for fishing vessels and their adjoining areas set apart and such limits as may be prescribed by the Government from time to time;’

Needs to be replaced by – “fish landing centre” means landing place where landing or berthing facilities for fishing vessels along with the spaces for related pre and post-harvest activities like boat and net keeping and repairing, fish sorting and drying, storage, office and basic facilities have been provided and their adjoining areas set apart and such limits as may be used by the small-scale fishing communities and notified by the Government from time to time;’

Sec.4 Power to regulate, restrict or prohibit certain matters with in specified areas:

Sec.4 (1b)> The thumb rule for sustainable fishing is to match fishing effort with sustainable yield. This rule needs to be followed by applying the principle of scale subsidiarity. It should be stated clearly in the Act and the actions called for to comply with these principles should be mandatory. As such an assessment of sustainable yield of fish and the capacity for fishing should be made and the control on fishing should first be imposed on boats with larger capacities.

Sec.4 (1e)> Not only night fishing with light, but also other fishing gears like trawl nets or mosquito nets, well accepted as destructive gears should be banned.

Sec.4 (3&4)> The area restrictions prescribed under this section **completely ignores the traditional manual fishing boats** and does not mention any exclusive fishing zone for them. It may be recalled that in the OMFRA Rules of 1983 area up to five kilometres into the sea from the shore was exclusively earmarked for them for fishing. According to the Marine Fisheries Census 2016 by CMFRI, there were 1,256 non-motorised fishing boats in Odisha. In consideration of the most sustainable nature of fishing by manual boats and the need to promote that, the provision of 5 kilometres of exclusive fishing zone from the shore should be retained for manual fishing boats.



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Also, the draft Amendment Act indicates exclusive fishing zone of 8 nautical miles (15 Kms.) from the shore for all non-mechanised fishing boats. Considering that motorised non-mechanised fishing boats may range up to boats having more than 100 HP engines, their exclusive fishing zones should be earmarked from 5 kilometres to 22 kilometres (12 nautical miles). All mechanised boats (having both mechanised propulsion and fishing operation) should operate beyond 12 nautical miles.

Sec.4 (2)> In making a notification under sub-section (1) it is important to abide by the principles mentioned as seven pillars in the National Policy on Marine Fisheries 2017, namely *sustainable development, socio-economic upliftment of fishers, principle of subsidiarity, partnership, inter-generational equity, gender justice and precautionary approach*. While we have already mentioned these principles earlier, here it would be appropriate to add the principle of *Climate Justice*, in view of the ever-increasing brunt of the climate crisis being borne by the fishing communities.

Sec.5 Prohibition of use of fishing vessel in contravention of any order made under section 4

Sec.5 (1)> This is not at all adequate to provide innocent passage rights to fishing vessels through a restricted or protected area. The National Marine Fishing Policy 2017 states that “the Government will also undertake review and periodic evaluation of the existing marine protected areas (MPAs) and for providing legislative support to ensure that tenure rights of the traditional fishermen are secured and their livelihoods not impacted by such conservation measures.” Accordingly, the government of Odisha should make a periodic review of the protected areas under its jurisdiction and provide legislative support to protect the tenure rights of small-scale fish workers.

Sec.6 Licensing of Fishing Vessels and Sec.9 Registration of vessels.

Sec.6&9> Registration and licensing of fishing vessels should be done strictly according to the principle of matching capacity of fishing to available sustainable yield of fish. The control/restriction on numbers of fishing vessels to be registered or licensed should be imposed from top downwards applying the principle of scale subsidiarity.

Regarding licensing and Registration of fishing vessels it should be mandatory for responsible authorities to notify the fishing communities on the procedure of the same in regional languages through community collectives.

Sec. 9(5a)> The government should hold awareness programmes as well as provide the necessary devices to small scale fish workers to enable them comply with the instructions on having sea safety, surveillance and communication systems.

Sec. 9(5e)> The government should also take effective steps to provide GAIS to all small-scale fishers under PMMSY or other schemes.

Sec.14 Power to enter and search fishing vessel

Sec. 14(4)> The proposed provision that “The Adjudicating officer may, if he has any reason to believe that the said gear was used in contravention of any provision of the act, authorize an



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officer by an order to destroy such gear into pieces beyond use in the presence of panel of members as he deems fit;" is a draconian provision for small scale fishers. Under this provision, the boat or net of a small-scale fisher may be destroyed for simply entering into a restricted area for fishing. There should be sufficient number of warnings and other provisions for correction.

The small-scale fishing communities fish for livelihood, not for commercial purpose. In different areas on the coast of India marine or coastal sanctuaries or national parks are imposed without considering their livelihood rights or having consultations with them. The small scale fishers have been made trespassers in their own waters by the forest department and the colonial forest laws. As the small-scale fishers entering into sanctuaries or national parks to earn their livelihood should not and cannot be prosecuted under WLP.

Sec.17 Penalty

Sec. 17> The penalties prescribed under the section are blind to the capacity or size of the boat or the scale of fishing. The penalties should be graduated down to small scale manual fishers starting from deep sea or mechanised fishers at the top. Thus the deep sea or mechanised fishing vessels should get highest penalties and the motorised or manual fishing vessels should get the lowest penalties in conformity with the principle of scale subsidiarity.

Sec.18 Constitution of Appellate Board and appeal to Appellate Board

Sec. 18(6)(b)> If the accused person is found to be not guilty of the actions for which charges were framed against that person by the appellate board or any higher court, then not only the deposits made by that person by the way of penalty, but also damages done to the fishing boat, net or other equipment during impoundment, the cost of fish seized by the concerned officers and the loss of livelihood due to the impoundment should be adequately and properly compensated without delay.

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