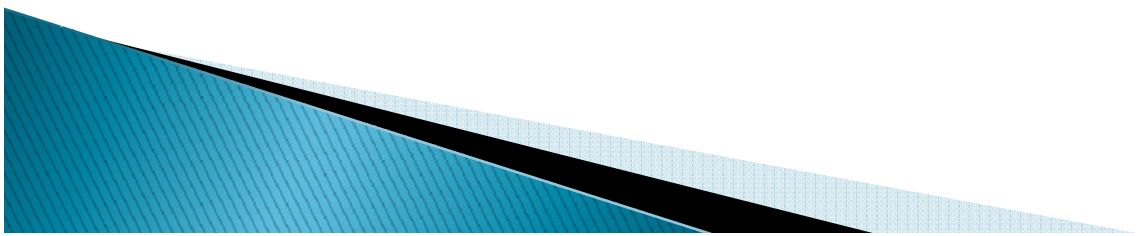
Observations on Preferential access

N. Venugopalan
International Collective in Support of FishworkersTrust

Workshop on Preferential Access for Small Scale Fishing Communities to Marine Fish Resources, Seva Kendra, Kolkata, India, 11 November 2018



structure

- legal instruments on Preferential access: UNCLOS, UNFSA, CCRF,SSFG, WFC, SDGs
- Indian legal instruments: NPMF 2017 and MFRAs from 1983,WLPA 1972
- Where are our fishermen fishing? Are they protected by any law or by policy?
- Is depth demarcation of zones enforced? How does it impact estimate of fish catch? What is the status of preferential access of SSF in India- Discussion

International legal instruments

- **UNCLOS 1982**

- **The coastal State, taking into account the best scientific evidence available to it, shall ensure through proper conservation and management measures that the maintenance of the living resources in the exclusive economic zone is not endangered by over-exploitation(UNCLOS Art.61)**

UNCLOS , Duties and our time

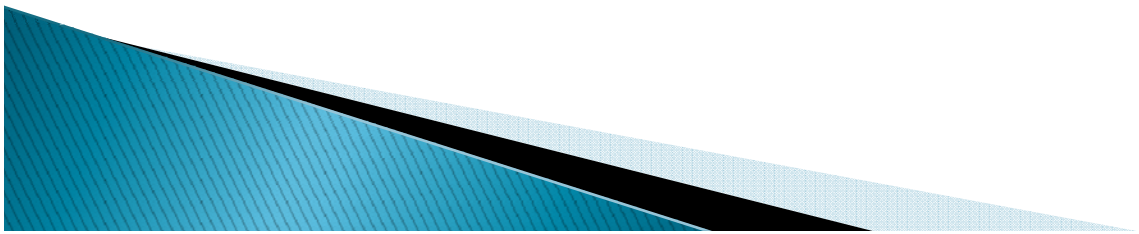
- over-capitalization in the fishing industry, excessive fleet size, overexploitation
- of the resources, problems of unregulated fishing, vessel reflagging to escape controls,
- insufficiently selective fishing gear, unreliable databases and lack of sufficient
- cooperation between States.

United Nations Fishstocks Agreement

- UNFSA 1995
- Art. 5(i) take into account the interests of artisanal and subsistence fishers;
- Art.24 (b) the need to avoid adverse impacts on, and ensure access to fisheries by, subsistence, small-scale and artisanal fishers and women fishworkers, as well as indigenous people in developing States

UNCLOS followed by UNFSA

- UNFSA incorporates UNCLOS principles and In so doing the UNFSA Agreement incorporates principles of conservation and management already established in the Convention, as well as new norms and rules developing or strengthening or facilitating the implementation of some relevant provisions of the UNCLOS



UNFSA and National jurisdiction

- Specific actions for the precautionary approach , Prevention of adverse impact of fishery activities and other human activities on the ecosystem, Minimization of pollution, waste and Discards and Use of selective, environmentally safe and cost-effective fishing gear and techniques, protection of marine biodiversity, prevention or elimination of overfishing and excess fishing capacity due consideration of the interests of artisanal and subsistence fishers

CCRF 1995

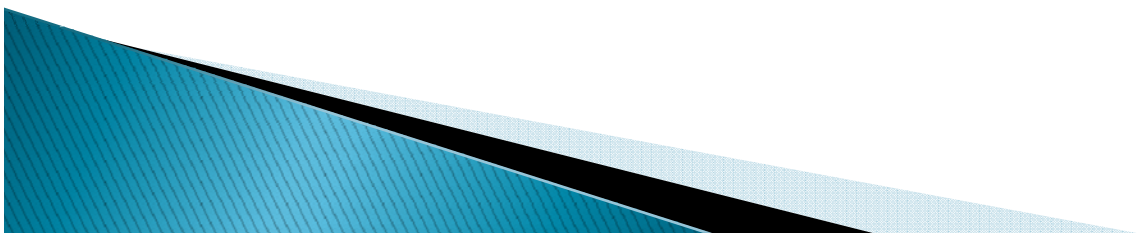
- **CCRF: 6.18 Recognizing the important contributions of artisanal and small-scale fisheries to employment, income and food security, States should appropriately protect the rights of fishers and fishworkers, particularly those engaged in subsistence, small-scale and artisanal fisheries, to a secure and just livelihood, as well as preferential access, where appropriate, to traditional fishing grounds and resources in the waters under their national jurisdiction.**

SSF Guidelines 2014

- 5.3 States, in accordance with their legislation, should ensure that small-scale fishers,
- fish workers and their communities have secure, equitable, and socially and culturally
- appropriate tenure rights to fishery resources (marine and inland) and small-scale fishing
- areas and adjacent land, with a special attention paid to women with respect to
- tenure rights.

Equity

- 5.7 Taking due account of Art. 6.18 of the Code, States should where appropriate grant
- preferential access of small-scale fisheries to fish in waters under national jurisdiction, with a view to achieving equitable outcomes for different groups of people, in particular vulnerable groups.



Equity….

- **Where appropriate, specific measures, inter alia, the creation and enforcement of**
- **exclusive zones for small-scale fisheries, should be considered.**

Management

- 5.5 States should recognize the role of smallscale fishing communities and indigenous peoples to restore, conserve, protect and comanage local aquatic and coastal ecosystems
- 5.6 States should, as applicable, recognize and safeguard publically owned resources that are collectively used and managed, in particular by small-scale fishing communities

Participation and Consultation

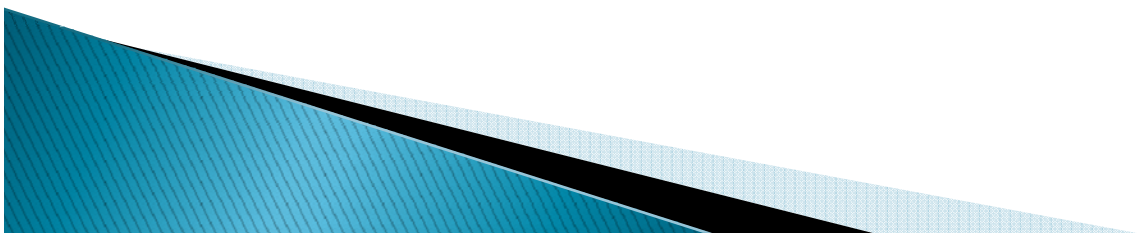
- 5.15 States should involve small-scale fishing communities – with special attention to equitable participation of women, vulnerable and marginalized groups – in the design, planning and, as appropriate, implementation of management measures, including protected areas, affecting their livelihood options.
- Participatory management systems, such as co-management, should be promoted in accordance with national law.

Human Rights based approach

- 5.4 States should take appropriate measures to identify, record and respect legitimate tenure right holders and their rights. Local norms and practices, as well as customary or otherwise preferential access
- to fishery resources and land by small-scale fishing communities including indigenous peoples and ethnic minorities, should be recognized, respected and protected in ways that are consistent with international human rights law.

Gender equality

- States should adopt specific measures to address discrimination against women
- States should establish policies and legislation to realize gender equality and, as appropriate, adapt legislation, policies and measures that are not compatible with gender equality



SDGs

- 1: No hunger
- 2. zero hunger
- 5. gender equality
- 6. clean water and sanitation
- 8. decent work and economic growth
- 13. climate action
- 14 life below water

WFC 2007

- Work in fishing convention supports agreement with fishermen working in board fishing vessels
- Conditions of work
- Living conditions

Indian legal instruments

- National Marine Fisheries policy 2017
- Maritime Zoines of India Act 1981
- To provide legislative support to ensure that tenure rights of the traditional fishermen are secured and their livelihoods not impacted by such conservation measures (8.0)
- EEZ means exclusive economic zones of India in accordance with the provisions of section 7 of the Territorial Waters, Act 1976

Indian legal instruments

- National Policy on Marine Fisheries 2017
- 9.0 Management of fisheries will follow an integrated approach, blending traditional knowledge and science with business principles and effective engagement of both primary stakeholders, and also those engaged in ancillary activities to ensure that fisheries are ecologically and economically sustainable.

Indian legal instruments NPMF 2017

- 11.0 Spatial and temporal closures have helped in sustaining marine fish wealth of the country. To ensure that these management measures effectively improve the livelihoods of fishers, periodic reviews will be conducted, taking into account the best scientific information available, including a precautionary approach, and with due engagement of fishers and other concerned stakeholders.

Indian legal instruments NPMF 2017

- 12.0. The Government will take appropriate steps in consultation with concerned scientific institutions and fishers in optimizing fishing effort and implementing measures that will help in sustaining the resources.

Indian legal instruments NPMF 2017

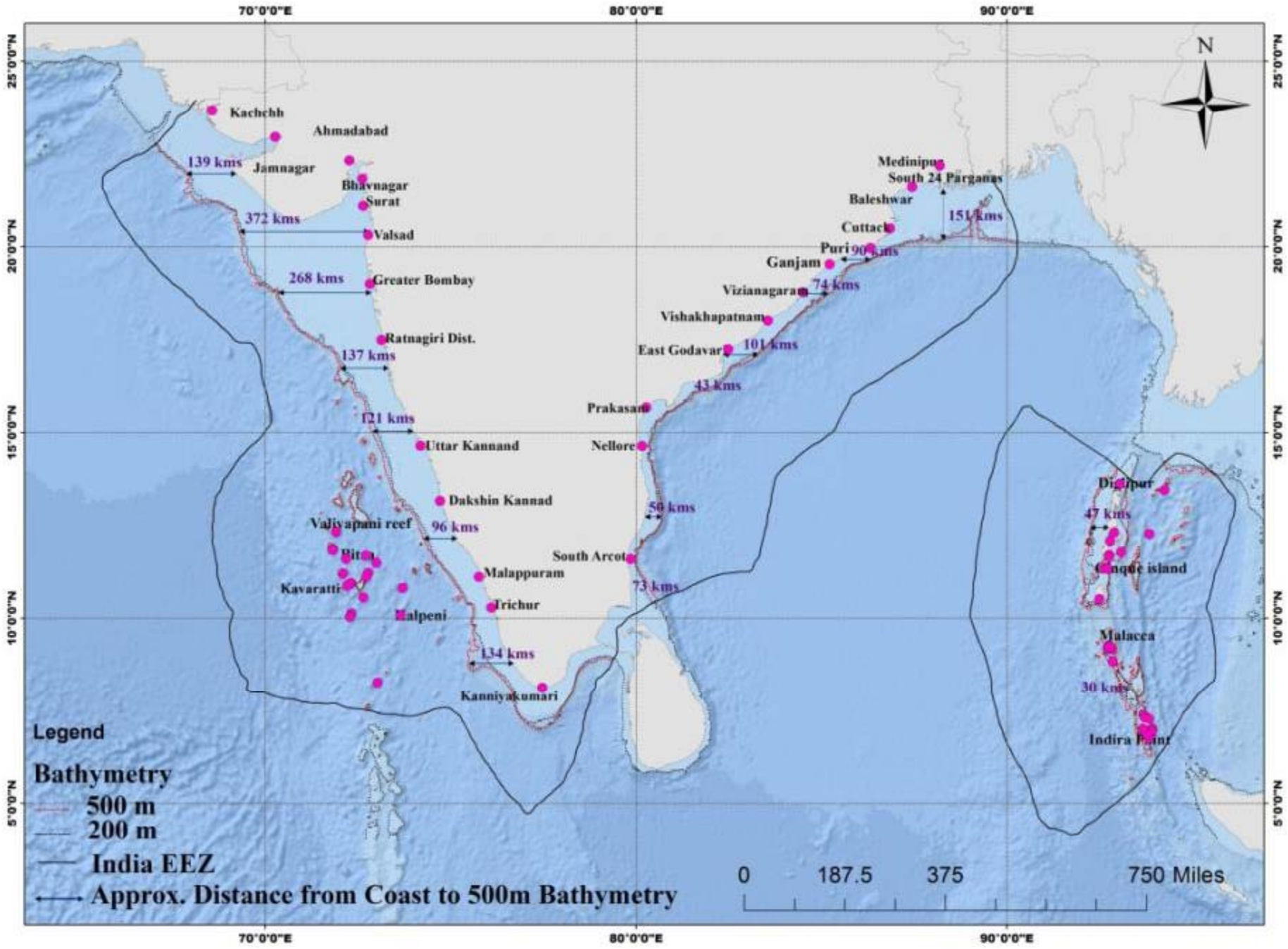
- *input and output controls such as fleet size, fishing days, area of operation, engine horsepower, gear size, MSY, minimum mesh size, minimum legal size, diverting effort to areas which are relatively less harvested, fleet plans, and creating fisheries management areas to ensure that resource depletion is contained.*

Where are our fishing vessels fishing?

- **91.8% of our estimated catch is from within 200 m depth (map)**
- **33% fishermen are employed in the mechanized sector**
- **62% fishermen are employed in the motorized sector**
- **5 % fishermen are employed in the non-motorized sector**

TABLE 11. FISHING CRAFT IN THE FISHERY

State/U.T	Trawlers	Gill netters	Dol netters	Liners	Ring Seiners	Purse seiners	Carrier boats	others	Total Mechanized	Motorized	Total
West Bengal	1,357	5,644	5,137	632	-	-	1191	14,282	-	3,066	17,348
Odisha	1,305	781	50	112	-	-	0	2,248	3,922	4,656	10,826
Andhra Pradesh	1,341	1,644	-	-	182	-	0	3,167	10,737	17,837	31,741
Tamil Nadu	5,767	4,028	-	380	306	-	211	10,692	24,942	10,436	46,070
Puducherry	367	2	-	-	-	-	0	369	1,562	662	2,593
Kerala	3,678	460	-	29	495	60	0	4,722	11,175	5,884	21,781
Karnataka	2,847	200	-	-	5	422	0	3,643	7,518	2,862	14,023
Goa	834	12	-	-	-	296	0	1,142	1,297	227	2,666
Maharastra	5,613	2,961	3,973	5	-	435	29	13,016	1,563	2,783	17,362
Gujarat	11,582	4,125	2,571	-	-	-	0	18,278	8,238	1,884	28,400
Daman & Diu	537	[illegible]	63	-	-	-	0	1,000	359	321	1,680
Total	35,228	20,257	11,794	[illegible]	988	1,213	1,431	72,559	71,313	50,618	194,490


70°0'0"E
80°0'0"E
90°0'0"E
25°0'0"N
20°0'0"N
15°0'0"N
10°0'0"N
5°0'0"N
N
Kachchh
Ahmadabad
139 kms
Jamnagar
Bhavnagar
Surat
372 kms
Valsad
268 kms
Greater Bombay
Ratnagiri Dist.
137 kms
121 kms
Uttar Kannand
Dakshin Kannad
Valiyapani reef
96 kms
Bitra
Kavaratti
Malappuram
Trichur
Palpeni
134 kms
Kanniyakumari
Medinipur
South 24 Parganas
Baleshwar
151 kms
Cuttack
Puri
90 kms
Ganjam
74 kms
Vizianagaram
Vishakhapatnam
East Godavar
101 kms
43 kms
Prakasam
Nellore
56 kms
South Arcot
73 kms
47 kms
Cinque island
Malacca
30 kms
Indira Point
Legend
Bathymetry
500 m
200 m
India EEZ
Approx. Distance from Coast to 500m Bathymetry
0
187.5
375
750 Miles

MFRA and Preferential access

- See map

India : Marine Fishing Regulations

States	Year Adopted	Specified areas for traditional fishing vessels	Mechanized fishing vessels operating areas (upto 12 nm)
Gujarat	2003	5 nm* (9 km), using hook and line fishing, gill netting	Beyond 5 nm (9 km) bottom trawling
Maharashtra	1981	5 fathoms (Thane, Raigad, Mumbai) 10 fathoms (Sindhudurg, Ratnagiri)	
Goa, Daman and Diu	1980	2.6 nm (5 km)	Beyond 2.6 nm (5 km)
Karnataka	1986	6 km (or beyond 4 fathoms)	Purse seine operations beyond 10 km Deep sea vessels beyond 20 km
Kerala	1980	Southern sector (1 - Kollengode to Paravoor Pozhikkara): upto 25 fathoms Southern sector (2 - Pozhikkara to Kovilthottam): upto 18 fathoms Northern sector (Pozhikkara to Kovilthottam) : upto 12 fathoms	Motorized fishing vessels Southern sector: area upto 20 fathoms Northern sector: area upto 10 fathoms Mechanized fishing vessels less than 25 GRT Southern sector: upto 35 fathom line Northern sector: upto 20 fathom line
Lakshadweep	2000		Prohibits the use of purse-seine, pelagic trawl, mid water trawl, and bottom trawl fishing gears and ring seine of mesh size 20 mesh size and below, except live bait net, drift gill net of mesh size 50 mm mesh size and below, shore seine of 20 mm mesh size and below – in the specified area (coral reefs around the islands, and the lagoons and the area in the seas around the inhabited, uninhabited islands and submerged reefs and islets.)

* nautical mile conversion has been done for the purpose of this table, original distance mentioned in parenthesis

States	Year Adopted	Specified areas for traditional fishing vessels	Mechanized fishing vessels operating areas (upto 12 nm)
Tamil Nadu	1983	3 nm	Beyond 3 nm
Andhra Pradesh	1994	8 km	* Mech.boats < 15m OAL – beyond 8 km * Mech. Boats > 15m OAL or 25 GRT – beyond 23 km
Orissa	1982	2.6 nm (5 km)	* upto 15 mts – beyond 2.6 nm (5 km) *above 15 mts – beyond 5.39 nm (10 km)
West Bengal	1993	Non –mechanized: upto 9 mts – till 4.3 nm (8 km) Non -mechanized above 9 mts – upto 10.7 nm (20 km) but not below 8 km	Mechanized upto 15m – upto 50 kms but not 10.7 nm (20 kms) Mechanized above 15m – beyond 26. 99 nm (50 kms)
Andaman and Nicobar	2004	Fishing Zone A: upto 6nm Vessels fitted with 30 HP engines including traditional and non-mechanized boats. (Gear to be used – (i) Gill net not below 25 mm mesh (knot to knot diagonally). (ii) Hook & Line. (iii) Shore seine/drag net of mesh size not below 25 mm. (iv) Fish traps.)	Fishing Zone – B (Territorial waters beyond 6 nautical miles from appropriate base line). Vessels fitted with engines of more than 30 HP. Gill net not below 25 mm mesh. (ii) Trawl net of standard mesh size fitted with turtle excluder device suitable to the trawl net. (iii) Long line, purse seine, squid jigger. (iv) Hook & Line.
Puducherry	2008	3 nautical mile	

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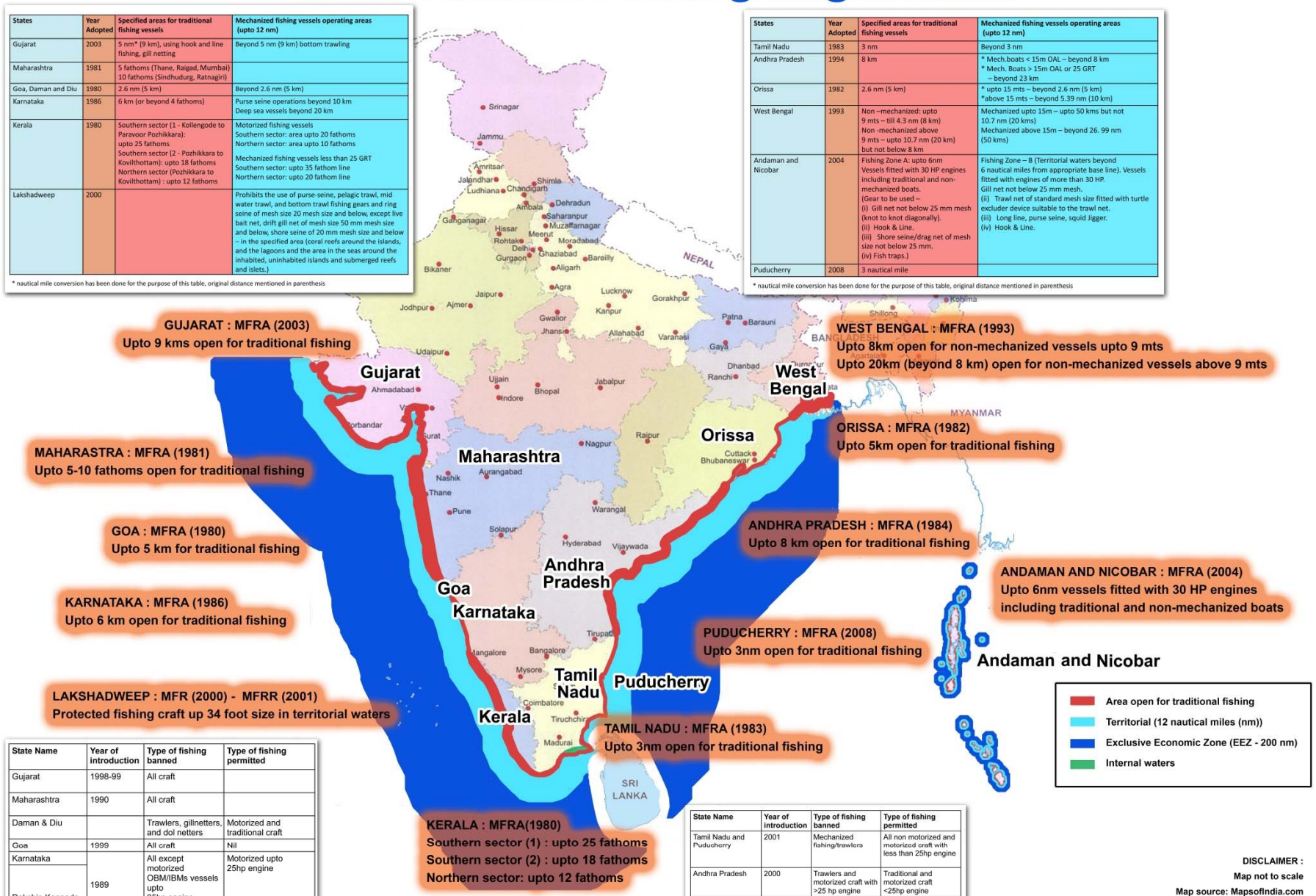


State Name	Year of introduction	Type of fishing banned	Type of fishing permitted
Gujarat	1998-99	All craft	
Maharashtra	1990	All craft	
Daman & Diu		Trawlers, gillnetters, and dol netters	Motorized and traditional craft
Goa	1999	All craft	Nil
Karnataka	1989	All except motorized OBM/IBMs vessels upto 25hp engine	Motorized upto 25hp engine
Dakshin Kannada			
Uttara Kannada			
Kerala	1988	Mechanized vessels/motorized craft> 10hp engine	All traditional and motorized craft of OBM/IBM upto 10hp engine

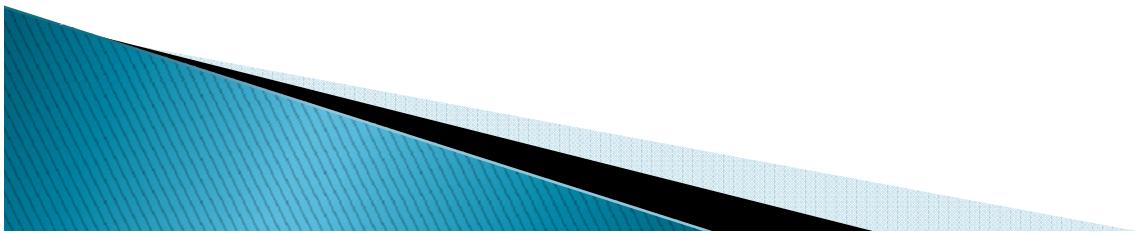
State Name	Year of introduction	Type of fishing banned	Type of fishing permitted
Tamil Nadu and Puducherry	2001	Mechanized fishing/trawlers	All non motorized and motorized craft with less than 25hp engine
Andhra Pradesh	2000	Trawlers and motorized craft with >25 hp engine	Traditional and motorized craft <25hp engine
Orissa	2000	Trawlers and motorized craft with <25 hp engine	Traditional and motorized craft <25hp engine
West Bengal	1995	Trawlers, gillnetters, behundi nets, bir net	

DISCLAIMER :
Map not to scale
Map source: MapsofIndia.com
This chart is meant for educational purposes only
NOT FOR CIRCULATION
Prepared by : ICSF, 2011

WLPA

- Declaration of area as sanctuary

- Provided that the limits of territorial waters to be included in the sanctuary shall be DETERMINED after taking adequate measures to protect the occupational interests of the local fishermen



Estimated marine fish landings in India during (In tonnes) 1985 - 2017			
Year	Landings (in tonnes)	Year	Landings (in tonnes)
1985	1522517	2002	2589645
1986	1679373	2003	2587095
1987	1649165	2004	2538105
1988	1785549	2004	2397710
1989	2208598	2005	2295490
1990	2142713	2006	2710988
1991	2222111	2007	2886016
1992	2277008	2008	3210528
1993	2245124	2009	3204546
1994	2325146	2010	3346686
1995	2225028	2011	3820208
1996	2380847	2012	3937751
1997	2692426	2013	3781864
1998	2664549	2014	3592855
1999	2401706	2015	3404771
2000	2652928	2016	3629823
2001	2292703	2017	3834574

Workshop to discuss

1. What is the goal of our national fisheries policy? Is it based on production targets? Is it based on increasing government revenue? Does it maintain employment in a diverse coastal economy? Are our migrant fishers working on fishing vessels protected?

Workshop to discuss

2. Whether Zones are demarcated by each State based on distance from the shoreline (from 5 km to 10 km) or on depth. These inshore zones, where trawling and other forms of mechanized fishing is not permitted, are perhaps the most important space-based fisheries management measure in place. What are the measures required for implementing the same effectively?

3. What are the metrics and indicators which can be developed to assess the success and shortcomings?
4. How can we incentivize compliance?
5. What are the measures we would require to make significant devolution of powers to manage fisheries equitably?

Workshop to discuss

6. What are the roles and responsibilities of fisher associations in managing fisheries together with the Government?
7. Could we suggest that how can fisher associations participate in fisheries policy making processes?

Observations on preferential access

Thank you