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Marine Fisheries Act 2020 of Bangladesh: A Missed Opportunity for Sustainability and Collaborative Governance

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Abstract

This article critically examines the Marine Fisheries Act 2020 of Bangladesh. The Act replaced the Marine Fisheries Ordinance 1983 with a view to upgrading the regulation of fisheries resources in Bangladesh's marine waters. However, a substantial portion of the Act replicates the 1983 Ordinance. Critically, the Act does not incorporate the internationally recognised principles and measures of fisheries management, despite Bangladesh's international obligations. Moreover, the new law is silent about capacity development of relevant government agencies and community engagement. Overall, it was a missed opportunity for Bangladesh to include sustainability and collaborative governance principles in its marine fisheries sector.

Keywords

Bangladesh – fisheries management – precautionary principle – ecosystem-based fisheries management – collaborative governance

Introduction

Bangladesh is a densely populated developing country located on the Bay of Bengal. The maritime boundary between Bangladesh and its neighbouring countries – India and Myanmar – has been mostly settled. Currently, Bangladesh has a 710-kilometre-long coastline with 118,813 square kilometres of maritime area within the Bay of Bengal.¹ Living resources found in Bangladesh's marine waters are diverse and include a total of 740 species of fish.² In addition, there are 36 species of shrimp, five species of lobsters, 12 species of crabs, 33 species of sea cucumbers and a host of other marine organisms.³ The marine fisheries sector contributes 15.31 per cent of the total fish production of Bangladesh, which helps meet the population's demands for animal protein.⁴

Bangladesh has a legal framework for the regulation of marine living resources. The regime includes laws, policies, bylaws, and statutory orders issued from time to time by the Department of Fisheries (DoF), a division of the Ministry of Fisheries and Livestock (MoFL). The Marine Fisheries Act 2020 (2020 Act) is the principal legislation. It provides substantive rules concerning fishing activities carried out by local and foreign fishing vessels within Bangladesh's maritime area. The 2020 Act deals mainly with the issue, renewal, revocation, and cancellation of licences and permits, and the conditions thereof, for the catching of fish in Bangladesh's marine waters and by Bangladesh vessels on the high seas.⁵ Other major provisions of the 2020 Act relate to the adoption and implementation of the management measures, designation of offences and penalties, appeals, and additional administrative

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- 1 This work was supported by KAKENHI (21F20313). S Barua, 'Bangladesh National Report to the Scientific Committee of the Indian Ocean Tuna Commission, 2020' available at <https://www.iotc.org/documents/SC/23/NR02>. All websites accessed on 27 September 2021.
 - 2 KA Habib and MJ Islam, 'An updated checklist of marine fishes of Bangladesh' (2020) 32(2) *Bangladesh Journal of Fisheries* 357–367, at p. 359.
 - 3 Barua (n 1).
 - 4 *Ibid.*
 - 5 Marine Fisheries Act 2020 (Bangladesh), ch III [2020 Act].

procedures in relation to the breach of any fishing rules.⁶ Prior to the enactment of the 2020 Act, the marine fisheries sector was regulated by the Marine Fisheries Ordinance 1983, which covered most of the matters noted above.⁷ Therefore, the new law does not offer anything that significantly enhances Bangladesh's marine fisheries management.

Bangladesh has ratified several fisheries related treaties, of which United Nations Convention on the Law of the Sea (LOSC)⁸ and UN Fish Stocks Agreement⁹ are the most prominent. Accordingly, Bangladesh is obliged to give effect to the provisions of these instruments by incorporating relevant standards into national legislation. International fisheries law is based on the conservation and sustainable utilisation of fish stocks, including the application of ecosystem-based fisheries management,¹⁰ the precautionary approach,¹¹ and the application of maximum sustainable yield (MSY).¹² Bangladesh is also a member of three regional fishery bodies active in the Indian Ocean region, the Indian Ocean Tuna Commission (IOTC), Asia Pacific Fisheries Commission (APFIC), and the Bay of Bengal Programme-Intergovernmental Organisation (BOBP-IGO). While the IOTC is a management organisation able to table binding measures, the APFIC and the BOBP-IGO are merely advisory.¹³ Membership in these organisations also, to some extent, results in Bangladesh having to

6 *Ibid.*, Chapters IV and V regulate fishing operations carried out by domestic and foreign fishing vessels, respectively; Chapter VI provides for certain prohibited fishing methods, Chapter VII lays down rules relating to the designation of marine protected areas, Chapter IX deals with administrative appeals, and Chapter X contains the provisions on offences and punishments under the law.

7 Marine Fisheries Ordinance 1983 (Bangladesh).

8 United Nations Convention on the Law of the Sea (Montego Bay, 10 December 1982, in force 16 November 1994) 1833 *UNTS* 3.

9 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (New York, 4 December 1995, in force 11 December 2001) 2167 *UNTS* 3 [UN Fish Stocks Agreement].

10 AA Arif, 'Exploring the legal status and key features of ecosystem-based fisheries management in international fisheries law' (2018) 27(3) *Review of European, Comparative & International Environmental Law* 320–331.

11 AA Arif, 'Legal status of the precautionary principle in international fisheries law and its application in the marine fisheries regime of Bangladesh' (2018) 3(1) *Asia-Pacific Journal of Ocean Law and Policy* 95–114.

12 AA Arif, 'Legal status of maximum sustainable yield concept in international fisheries law and its adoption in the marine fisheries regime of Bangladesh: A critical analysis' (2017) 32(3) *International Journal of Marine and Coastal Law (IJMCL)* 544–556.

13 Indian Ocean Tuna Commission (IOTC), 'Structure of the Commission' available at <https://www.iotc.org/about-iotc/structure-commission>; Bay of Bengal Programme-Intergovernmental Organisation, 'Members' available at <https://www.bobpigo.org/pages/>

develop and implement additional sustainable fisheries practices. For example, IOTC has adopted a resolution regarding the application of the precautionary approach in accordance with relevant internationally agreed standards.¹⁴

This article explores the extent to which the 2020 Act has been successful in fulfilling Bangladesh's international obligations concerning its marine fisheries management. In doing so, it highlights the lack of management capacity and absence of cooperative governance measures that are essential for the implementation of internationally recognised marine conservation principles in Bangladesh.

Background of the New Law

The Marine Fisheries Act 2020 (Act No 19 of 2020) was passed by Parliament on 16 November 2020 and received the Presidential approval on 26 November 2020. Previously, the marine fisheries resources of Bangladesh were regulated by the Marine Fisheries Ordinance 1983. The rationale for introducing the 2020 Act according to the government, was to address a ruling of the Supreme Court of Bangladesh that declared the laws passed by the military rulers between 24 March 1982 and 11 November 1986 unconstitutional and void.¹⁵ As such, the government was under an obligation of replace those laws with constitutionally valid laws enacted by Parliament.¹⁶ In addition, the government considered the 1983 Ordinance to be outdated, so a new law was required to regulate contemporary fisheries activities.¹⁷

Long before the government took the initiative to enact a new law for the fisheries sector, experts had advocated a new law that would incorporate contemporary concepts of fisheries management into domestic law.¹⁸ However, the 2020 Act mostly replicated the 1983 Ordinance, although it changed the

view/members; Asia Pacific Fisheries Commission, 'Membership' available at <http://www.fao.org/apfic/background/about-asia-pacific-fishery-commission/membership/zh/>.

14 IOTC, Resolution 12/01 on the Implementation of the Precautionary Approach (2012) available at <https://www.iotc.org/cmm/resolution-1201-implementation-precautionary-approach>.

15 2020 Act (n 1), preamble.

16 *Ibid.*

17 *Ibid.*

18 MG Khan, 'Bangladesh coastal and marine fisheries, and environment' in MG Hussain and ME Hoq (eds), *Sustainable Management of Fisheries Resources of the Bay of Bengal* (BOBLME Project, Bangladesh Fisheries Research Institute, Bangladesh, 2010) 1, 32; see also Arif (n 11); MW Alam *et al.*, 'Ocean governance in Bangladesh: Necessities to implement structure, policy guidelines, and actions for ocean and coastal management' (2021) 45 (101822) *Regional Studies in Marine Science* 1, 3; MG Hussain *et al.*, 'Major opportunities

language from English to Bangla. Soon after the enactment of the 2020 Act, some fishers expressed their dissatisfaction with the new law, claiming that it would negatively impact their fishing activities and demanded that the law be amended.¹⁹ Their concerns were mainly about the stern penal provisions of the Act, which imposed heavy fines and prison sentences for breaches of fishing rules.²⁰

What Is New in the Marine Fisheries Act 2020?

The 2020 Act introduces a few novel provisions. First, unlike the 1983 Ordinance, it distinguishes between artisanal and industrial fishing. The 2020 Act provides for a separate 'permits' regime vis-à-vis the 'licence' regime for artisanal fishers who operate fishing vessels with a capacity of 15 tonnes or less.²¹ In this connection, it is noted that Bangladesh's marine fisheries laws do not cover recreational fishing. The fact that recreational fishing in the Bangladesh's marine waters is still relatively uncommon might have been the reason behind the absence of any provision on such fishing. However, the law should be forward-looking and cover issues that could arise in the future.

Second, a new provision on illegal, unreported, and unregulated (IUU) fishing is found in Section 5, which states that 'the government reserves the right to issue any necessary orders to prevent IUU fishing within Bangladesh's marine waters'.²² In so doing, the Director General of the Fisheries Department may take necessary actions to conduct stock assessments (either overall or for specific species), adopt conservation measures, and determine allowable catches in Bangladesh's maritime area.²³ However, the inclusion of these conservation measures only in the context of IUU fishing is questionable. These should form a separate part of the Act with more comprehensive provisions. Furthermore, the Director General of the Fisheries Department may take necessary

of blue economy development in Bangladesh' (2018) 44(1) *Journal of the Indian Ocean Region* 88, 96.

19 A Hussain, 'Marine Fisheries Association demands revision of act' *Dhaka Tribune*, 7 December 2020, available at <https://www.dhakatribune.com/bangladesh/military-affairs/2020/12/07/marine-fisheries-association-demands-revision-of-act-2020>.

20 'Trawler owners' body seeks amendment to Marine Fisheries Act' *The Daily Star*, 9 December 2020, available at <https://www.thedailystar.net/city/news/trawler-owners-body-seeks-amendment-marine-fisheries-act-2008261>.

21 2020 Act (n 1), sections 2(3), 21.

22 *Ibid.*, section 5 (translation by the authors).

23 *Ibid.*, section 5(2).

monitoring, control and surveillance (MCS) actions to ensure the MSY of the marine species.²⁴

Third, the declaration relating to the establishment of mariculture zones within the marine area of Bangladesh to expand the growth of blue economy is another innovation of the Marine Fisheries Act 2020.²⁵ However, mariculture activities without a proper environmental impact assessment may have a significant adverse impact on the marine environment.²⁶ The new law gives wide power to the authorities to declare mariculture zones without introducing any provisions for the protection of the marine environment and consultation with the local communities who may be affected by the mariculture activities.

Finally, the new law requires that industrial fishing trawlers, either imported or locally built, adhere to specifications fixed by the government. Failure to meet such specifications will result in such trawlers being refused registration.²⁷

Shortcomings of the Marine Fisheries Act 2020

There are several major shortcomings in the Marine Fisheries Act 2020 in relation to giving effect to Bangladesh's international obligations. First and foremost, the law does not incorporate, either explicitly or implicitly, the precautionary principle. The precautionary principle has been widely accepted as an essential component of fisheries management.²⁸ Several international instruments, both legally and non-legally binding, incorporate this principle as a cardinal component of fisheries management. They include the UN Fish Stocks Agreement, to which Bangladesh is a party,²⁹ and the FAO Code of Conduct for Responsible Fisheries (FAO Code).³⁰ It has also been argued that

²⁴ *Ibid.*

²⁵ *Ibid.*, section 6.

²⁶ M Casadevall *et al.*, 'Editorial: Marine aquaculture impacts on marine biota' (2021) 8 *Frontiers in Marine Science* 615267.

²⁷ 2020 Act (n 1), section 20.

²⁸ DW Archibald, R McIver, and R Rangeley, 'The implementation gap in Canadian fishery policy: Fisheries rebuilding and sustainability at risk' (2021) 129 *Marine Policy* 104490.

²⁹ UN Fish Stocks Agreement (n 9), Articles 5, 6.

³⁰ Also included in the latter is the principle to ensure conservation of marine living resources and preservation of marine biodiversity. Food and Agriculture Organization of the United Nations (FAO), *Code of Conduct for Responsible Fisheries* (FAO, Rome, 1995), para 6.5 [FAO Code].

the obligation to implement the principle of precaution has emerged as an obligation under customary international law.³¹

It can be noted that in a recent case related to river pollution and encroachment, the High Court Division of the Supreme Court of Bangladesh declared the precautionary principle to be part of the laws of Bangladesh.³² However, this direction was later reversed by the Appellate Division, which stated that declaring the precautionary principle as part of the law of the land was beyond the scope of the Court.³³ Nevertheless, the Appellate Division held that the principle ought to be followed if it was recognised by any law.³⁴ This shows the importance of statutory provisions providing for the application of the principle.

Second, the 2020 Act does not provide for ecosystem-based fisheries management (EBFM). Since fish stocks are interdependent and there is a close relationship between fish stocks and the ecosystems in which they occur, single species management policies without considering the impact of such fishing on other species or marine ecosystems are bound to be counterproductive.³⁵ The LOSC,³⁶ the UN Fish Stocks Agreement,³⁷ and the FAO Code³⁸ require that coastal States incorporate interspecies relationships and ecosystem considerations into the management of fisheries resources. Despite this, the 2020 Act and other relevant laws do not include such requirements. This signals Bangladesh's unwillingness (or inability) to move towards the implementation of EBFM. As a result, fisheries managers will continue to manage fisheries on a target stock basis, without considering interspecies relationships and the impacts of fishing on wider marine ecosystems.

31 S Marr, *The Precautionary Principle in the Law of the Sea: Modern Decision Making in International Law* (Brill, Leiden, 2020) 216.

32 *Human Rights and Peace for Bangladesh v. Bangladesh*, Writ Petition No. 13989 of 2016, Bangladesh Supreme Court (High Court Division) (judgement dated 30 January 2019 and 3 February 2019) available at http://www.supremecourt.gov.bd/resources/documents/1048627_WP.13989of2016.pdf.

33 *Nishat Jute Mills Limited v. Human Rights and Peace for Bangladesh and Others*, Civil Petition for Leave to Appeal No. 3039 of 2019, Bangladesh Supreme Court (Appellate Division) (judgement dated 17 February 2020) available at http://nrccb.portal.gov.bd/sites/default/files/files/nrccb.portal.gov.bd/notices/4569e59a_762b_41a2_95ca_0c462408f25c/2020-09-01-11-55-8a72b183077f80c5e8671bb4a0d7a5fi.pdf.

34 *Ibid.*

35 S Parsons, 'Ecosystem considerations in fisheries management: Theory and practice' (2005) 20(3) *IJMCL* 381–422, 382.

36 LOSC (n 8), Article 61.

37 UN Fish Stocks Agreement (n 9), Article 5.

38 FAO Code (n 30), paras 6.2, 7.2.3, 9.1.2, 12.5.

Third, coastal States are under an obligation to determine the TAC of the living resources in their EEZs.³⁹ In determining the TAC, States shall take into consideration several factors, including the best scientific evidence available, the maintenance of stocks at their MSY level, and the effects of fishing on species associated with or dependent upon harvested species.⁴⁰ While the 2020 Act provides for the determination of allowable catches and maintenance of fish species at the MSY level, it does so cursorily and without delineating necessary factors that need to be considered in this regard.⁴¹ Also, the law deals with the determination of allowable catches as a means to combat IUU fishing, not as an independent fisheries management measure in its own right.

In this connection, it can be noted that the government reserves the right to make rules to determine the total allowable catch of fish and the usage, exploration, exploitation, preservation, and management of living and non-living resources of the EEZ via a recently enacted law.⁴² Although the determination of TACs and enforcing them through proper monitoring of fish landings (i.e., output controls) are generally considered to be an effective mechanism for the management fish stocks, Bangladesh's marine fisheries regulatory framework mainly relies on input control methods such as licence regimes, gear restrictions, and closed seasons. However, rampant noncompliance with the rules regarding licences and seasonal closures due to regulatory and socioeconomic factors makes the law largely ineffective.⁴³ Thus, the over-reliance on the input control method can be counterproductive in the long run as stock assessments are infrequent and management measures are not adopted based on the precautionary principle. As a solution to this problem, the 2020 Act should have strengthened output control by providing detailed rules on the determination and enforcement of TACs.

Fourth, the LOSC obliges States to exchange available scientific information, catch and fishing effort statistics, and other data relevant to the conservation of fish stocks with other concerned States.⁴⁴ Furthermore, States are under an obligation to engage in bilateral, multilateral or regional cooperation for the

39 LOSC (n 8), Article 61.

40 *Ibid.*

41 2020 Act (n 1), section 5.

42 Territorial Waters and Maritime Zones (Amendment) Act 2021 (Bangladesh), section 7 [Territorial Waters Act].

43 See generally MM Islam *et al.*, 'Exploitation and conservation of coastal and marine fisheries in Bangladesh: Do the fishery laws matter?' (2017) 76 *Marine Policy* 143; MM Shamsuzzaman and MM Islam, 'Analysing the legal framework of marine living resources management in Bangladesh: Towards achieving Sustainable Development Goal 14' (2018) 87 *Marine Policy* 255.

44 LOSC (n 8), Article 61(5).

conservation and management of transboundary fish stocks.⁴⁵ Since most of the marine species found in Bangladesh's EEZ are transboundary, developing compatible management measures with neighbouring States is of immense importance. The law is, however, silent on the management of transboundary fish stocks. Even a mere recognition of the 'duty to cooperate' with other States in managing and conserving fisheries resources in the law would have helped to encourage fisheries managers to take action in this regard.⁴⁶ Although there are several regional and subregional organisations in place in the Bay of Bengal region, meaningful cooperation among the littoral States in managing transboundary fish stocks has not been successful.⁴⁷ Nevertheless, it is heartening to note that the recently passed Territorial Waters and Maritime Zones (Amendment) Act 2021 enables the government to make cooperative arrangements, either bilaterally or multilaterally, for the preservation and protection of fish stocks and marine mammals in the EEZ and on the high seas in accordance with national and international law.⁴⁸

In addition to the above, the 2020 Act has some administrative shortcomings. For example, the 2020 Act has given numerous responsibilities and excessive power to the Director of the Marine Fisheries Division without establishing a system of checks and balances.⁴⁹ This may lead to either inadequate performance or abuse of power since accountability and transparency mechanisms do not function properly in Bangladesh.⁵⁰ Although the Director can delegate responsibilities to other officers, the chances of abuse of authority remains. Also, the Marine Fisheries Office may find it difficult to perform its functions because the office claims to have been under-resourced and short-staffed.⁵¹ Overall, our review of the 2020 Act vindicates existing criticisms that the sustainability of Bangladesh's marine fisheries sector has not been paid appropriate attention by the government; in other words, there is a lack of political will in this regard.⁵²

45 *Ibid.*, Articles 63–67, UN Fish Stocks Agreement (n 9), Article 8.

46 See EA Clark, 'Strengthening regional fisheries management: An analysis of the duty to cooperate' (2011) 9 *New Zealand Journal of Public International Law* 223.

47 AA Arif, *Sustainable Fisheries Management and International Law: Marine Fisheries in Bangladesh and the Bay of Bengal* (Routledge, Abingdon, 2022) 141.

48 Territorial Waters Act (n 42), section 11.

49 2020 Act (n 1), sections 8, 11, 12, 13, 16, 21, 54, 58.

50 Islam *et al.* (n 43), at p. 148.

51 Marine Fisheries Office, Department of Fisheries (Bangladesh), *Progress Report on Marine Fisheries Office: A Way Forward to Promote Blue Economy* (2016) 40.

52 Arif (n 47), at pp. 108–110.

Overlapping Provisions of Various Laws and Lack of Capacity

The 2020 Act defines fish as all species of living and processed marine resources including their young, fry, egg, and spawn.⁵³ This effectively includes every possible type of marine fauna, and so may result in conflicts with measures adopted under the Wildlife (Conservation and Security) Act 2012 (Wildlife Act).⁵⁴ The Wildlife Act defines 'wild animals' as 'different types and species of animals or different stages of their life cycle, the source of which is considered as wild'.⁵⁵ The same species could be treated as wildlife under the Wildlife Act and as fish under the Marine Fisheries Act. In fact, many marine faunas are included in the schedule of the Wildlife Act. This may become problematic when multiple government agencies work under different laws without proper coordination. The overlapping provisions were not given adequate attention when the 2020 Act was drafted. All government agencies are trying to consolidate their power without proper consultation and cooperation with each other. Moreover, the government departments are not sufficiently resourced to manage marine areas.⁵⁶ This new law enhances the power of the fisheries department without any initiatives for capacity building.

A brief analysis of the protected area regimes under different laws reveals even more potential for jurisdictional conflicts between different agencies. The preceding law, that is, the Marine Fisheries Ordinance 1983, contained a provision on marine reserves. The Marine Fisheries Act 2020 changed the name of 'marine reserve' to 'marine protected area' using the same term as found in the Wildlife Act 2012, but without providing how the concept was to be operationalised. The 2020 Act does not even define the term 'marine protected area'. Under similar provisions in previous laws, two marine reserves were established without any guidelines for conservation or including any enforcement measures. One of these reserves was declared in 2000.⁵⁷ The second marine reserve was promulgated in 2019 under the previous law just before the enactment of the Marine Fisheries Act 2020.⁵⁸ Given that neither

53 2020 Act (n 1), section 2. This definition is wider than the definition of fish in some other countries legislation. For example, relevant Australian law defines fish as 'all species of bony fish, sharks, rays, crustaceans, molluscs and other marine organisms, but does not include marine mammals or marine reptiles'. Fisheries Management Act 1991 (Act No 162 of 1991) (Australia), section 4. Bangladeshi law's definition does not exclude mammals and reptiles.

54 Wildlife (Conservation and Security) Act 2012 (Bangladesh) (Act No 30 of 2012), English translation of the Act is available at: <http://extwprlegsl.fao.org/docs/pdf/bgdi65019.pdf>.

55 *Ibid.*, section 2(25).

56 See generally, Shamsuzzaman and Islam (n 43).

57 Ministry of Fisheries and Livestock, SRO 327/AIN, 30 October 2000.

58 Ministry of Fisheries and Livestock, SRO 211-AIN/2019, 24 June 2019.

of these declarations provided any plan of action for conservation or protection of marine resources, and there is no evidence of proper management and enforcement being put in place, it is not clear what can be achieved by just changing the name. This suggests that protected areas are little more than ‘paper parks’.

TABLE 1 Declaration and management of marine protected areas in Bangladesh

Statute	Relevant Agency	Designation of Protected Area	Reasoning for Declaration
Environment Conservation Act 1995	Department of Environment Ministry of Environment, Forest and Climate Change	Ecologically critical area	‘[A]n area is in an environmentally critical situation or is threatened to be in such a situation.’ ^a
Wildlife Act 2012	Forest Department (Chief Warden) Ministry of Environment, Forest and Climate Change	Wildlife sanctuary (marine protected area)	‘[C]onsidering natural, geomorphological features, biodiversity and environmental significance, declare ... any specified area as sanctuary’ (s 13(1)); the Act specifically mentions ‘marine protected area’ as a sanctuary (s 13(2)).
Marine Fisheries Act 2020	Department of Fisheries Ministry of Fisheries and Livestock	Fish sanctuary and marine protected area	Government may declare fish sanctuary or marine protected area if marine flora and fauna in an area are endangered or facing the threat of extinction (s 29(1a)); it can also be declared if the aquatic resources are decreasing in certain marine areas (s 29(1b))

a Environment Conservation Act 1995 (Bangladesh) (Act No 1 of 1995) s. 5(1), an English translation of the Act is available at: <http://extwprlegs1.fao.org/docs/pdf/bgd42272.pdf>.

As per Table 1, different agencies may manage protected areas that can be designated in the same marine waters but without any coordination of management efforts. Although the core elements for designating protected areas are similar, there is no evidence of coordinated efforts to manage marine protected areas.⁵⁹ Different government institutions in Bangladesh appear to be managing the marine area without proper coordination, cooperation, and capacity.⁶⁰ Despite their willingness to declare marine protected areas, none of these departments has implemented any plan to operationalise and enforce management measures in marine protected areas.⁶¹ This has resulted in declaration of marine protected areas without the adoption of any practical measures for the protection of marine fisheries or marine ecosystems.⁶² This shows policymakers' unwillingness to manage marine protected areas effectively. This reflects the same lack of commitment to sustainably manage marine fisheries in Bangladesh. As observed by several experts prior to the enactment of the 2020 Act, the development of marine fisheries law in Bangladesh is limited to piecemeal amendment of existing laws rather than a comprehensive reform that establishes 'an integral, coherent and comprehensive legal framework'.⁶³ Despite there being acknowledged gaps in capacity and coordination, the 2020 Act fails to address such shortcomings.

Unfortunately, the 2020 Act has also taken the approach of 'simple amendments',⁶⁴ rather than a comprehensive reform of the system. Even, those minor substantive amendments discussed above were not particularly well-considered. The conservation of the marine environment will also require functional collaboration with some other relevant agencies including the law enforcement agencies, port authorities and the Shipping Department. Further legal reform is necessary for the prevention of marine pollution, which is one of the major threats to marine living resources in Bangladesh.⁶⁵ Another major drawback of the new law is the complete failure to make provisions

59 Hussain *et al.* (n 18).

60 Alam *et al.* (n 18); Shamsuzzaman and Islam (n 43).

61 For example, MS Karim and MM Uddin, 'Swatch-of-no-ground marine protected area for sharks, dolphins, porpoises and whales: Legal and institutional challenges' (2019) 139 *Marine Pollution Bulletin* 275.

62 *Ibid.*

63 Islam *et al.* (n 43), at p. 150.

64 *Ibid.*

65 MW Alam, MS Bhuyan and X Xiangmin, 'Protecting the environment from marine pollution in Bangladesh: A brief in legal aspects with response to national and international cooperation's' (2021) 37 *Thalassas: An International Journal of Marine Sciences* 871–881; MS Karim, 'Implementation of the MARPOL Convention in Bangladesh' (2009) 6(1) *Macquarie Journal of International and Comparative Environmental Law* 51–82.

for public participation and consultation in adopting fisheries conservation and management measures. Legislative reforms in Bangladesh generally fail to establish a cooperative legal regime for the conservation of its marine living resources, including fisheries. The Marine Fisheries Act 2020 is yet another example of that.

Conclusion

Marine fisheries are a crucial sector for a heavily populated developing nation such as Bangladesh. Therefore, a sophisticated legal framework should be employed to ensure optimum exploitation without compromising the conservation of marine fisheries resources. When the Government of Bangladesh decided to enact a new law for the marine fisheries sector, there were high expectations among concerned stakeholders that the new law would enhance the overall fisheries management of the country. However, 2020 Act failed to live up to those expectations. The law is particularly deficient in failing to give effect to contemporary fisheries management approaches as well as not establishing an interagency cooperative framework. If Bangladesh is to take its responsibilities for fisheries management seriously, the government should commit to a proper law reform process, consult with relevant stakeholders, and seriously engage in the development of contemporary fisheries management practices within domestic fisheries law.