

Confusion, Uncertainty

Ten years of freshwater fisheries governance reform in the Ayeyarwaddy region of Myanmar has led to greater democratization and decentralization, but problems remain

The decentralization of powers in the governing structures of the inland/freshwater fishery sector in Myanmar has brought about changes in fisheries governance, which can be characterized by three inter-related processes: movements of small-scale fishers (SSF) for greater fishing rights; multi-stakeholder engagement in the form of fishery partnerships; and policy reforms in fisheries co-management.

Following the decentralization of freshwater fisheries governance in 2008, the Ayeyarwaddy region passed a fishery law that recognized some rights of SSF, which were previously neglected in fishery legislation. The new fishery law of 2018 was promulgated to recognize the rights of SSF and the fishery co-management mechanism. In the intervening 10-year period, the fishery governance of the Ayeyarwaddy

economic liberalization of the fishery sector, introducing the open auction system to “any person.”

Successive governments followed the fishery regulations enacted under the 1905 Burma Fishery Act and granted exclusive exploitation rights to licence holders. During the military government period, the 1991 Freshwater Fishery Law was enacted, which enhanced revenue collection from the inland fishery sector. During the 1991-2010 decades, large numbers of open auction fisheries were demarcated as tender lots and allocated to private individuals. The process of privatization and provision of exclusive rights to individuals excluded many local SSF from accessing fishing grounds. The system led to a monopoly of fishing rights, to the advantage of business elites. Successive governments – of both the colonial and democratic periods – neglected the livelihood concerns of local SSF communities and regarded the fishery as a mere source of revenue. As a result, the poverty levels of SSF communities in the Ayeyarwaddy Delta increased massively over the period. Moreover, the higher prices for fishing licences contributed to the overexploitation of fishery resources and the decline in fish stocks. The livelihoods of SSF were thus worsened, pushing them into deeper levels of poverty. The result was increased conflicts between licence holders and SSF in the use of resources – and massive out-migration.

According to Schedule II of the 2008 constitution, the inland/freshwater fishery sector has been decentralized to the sub-national (state and region) levels, in terms of both legislative powers and revenue management. This has had several positive impacts. First, the democratization and decentralization process has narrowed the distance between SSF and policymakers. The

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region gradually changed in positive ways, and the reforms of 2018 brought about significant improvements in SSF access to fishing rights. At the same time, the reform suffers from incomplete decentralization, irrelevant institutional design and divergent interests of the actors involved.

Even before the British colonial era, the inland fisheries sector of Myanmar was very productive and the British government introduced the auction system for the allocation of fishery leases in 1875, following the recommendation of Francis Day. In 1905, a new fishery act was promulgated that furthered the

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SSF have got opportunities to engage, and consult with, new policy actors and parliamentarians from their respective areas.

Second, the democratization process has led to greater freedom of association and media interaction; SSF now have the opportunity to establish their own organizations and initiate campaigns that demand direct access to fishing rights. This has also helped bring fishing rights issues into the public domain.

Third, improved access to communication has helped the SSF movement to access social and political processes, as well as to enhance communication and collective action among the SSF organizations.

Fourth, the democratization process has allowed non-state actors to work to strengthen civil society organizations and NGOs to campaign for a better governance system. Many of these non-state actors have been working in Ayeyarwaddy since the 2008 Nargis cyclone in areas like capacity building, organizational development, and advocacy actions.

Finally, the democratization and decentralization process created a new balance in institutional power, limiting the role of government in policymaking, and forcing it to engage with other stakeholders, especially with the SSF movement.

In 2011 the SSF sought to abolish the tender and lease fisheries system, and provide direct access to the resources. However, the movement failed for several reasons. First, the SSF organizations were small, and suffered from limited communication and collaboration amongst themselves.

Second, the revenue from fisheries contributes to about 39 per cent of the total revenue collected by the regional government. Thus, the SSF demand for abolishing the tender and lease system was not acceptable to the regional government.

Thirdly, the fish collectors and leaseholders were powerful and influential at all levels of decision making, with some going on to become parliamentarians in the first parliament of 2011-2015. Hence, until 2013 the early movement of SSF was not successful. Later they built larger,



Cast net fishing in the flood plain of Kayin State, Myanmar. The 2018 freshwater fishery law of Ayeyarwaddy recognizes the rights of SSF and the co-management mechanism

more representative bodies in their respective townships. In 2014, the Ayeyarwaddy Region Fisher Network (ARFN) was established in which 21 SSF organizations from different townships of the Ayeyarwaddy region were involved. After that, advocacy efforts shifted from abolishing the tender and lease system to increasing equitable access to fishing rights through fisheries co-management. In this, they had the support of NGOs and non-state actors.

Major discussions

Informal and formal engagement mechanisms among the stakeholders were introduced to resolve resource use conflicts. The negotiations for fishing rights later led to multi-stakeholder engagements for fishery policy reform in Ayeyarwaddy region. In 2014, the Ayeyarwaddy Fishery Partnership (AFP) was established, which became the platform for the major discussions on inland fishery policy reform.

The 2012 fishery law focused primarily on formalizing revenue collection mechanisms from the regions' fisheries concessions, and reintroduced the auction system for better revenue generation from inland fisheries. However, the governance system remained in favour of large-scale fisheries. Worse, the auction system led to an escalation in fishing licence fees and increased the frequency and severity of resource use conflicts.

In early 2017, the Ayeyarwaddy Regional Government introduced a new policy that allowed a selective allocation of tenders directly to fishing community groups. This initiative was championed by the Regional Minister of Agriculture, who pushed through this policy, despite objections from powerful business interests. For the 2017-18 fishing season, more than 400 fishing grounds were allocated to community fisher groups. However, the ambitious and unconstitutional executive order forced the minister to resign.

The new minister and regional parliament continued to support the old policy and co-management initiatives. The fishery governance reform was accelerated by the promulgation of a new Ayeyarwaddy region freshwater fishery law in 2018. The new fishery law recognizes the fishing and livelihood rights of SSF, and the co-management mechanisms put in place.

Several challenges remain in the current fishery governance reform process. The first relates to the provisions of the constitution. Although the constitution allows for political, administrative and fiscal decentralization, it does not mandate the relevant institutional structures necessary to implement

the previous centralized management system, under which prices for tender and lease are to be increased by 10 per cent annually, even as fishery resources are declining.

The third challenge comes from the application procedure of the co-management system. Since most SSF communities are poor and most fisher families have low education levels, it is difficult for some SSF communities to make the first attempt to apply for co-management. Although the fishery law states that DOF officials should support SSF groups in preparing for co-management application, this aim is often hampered by inadequate organizational capacity, culture and practices.

The fourth challenge is related to the limited financial capacity of the SSF communities. Although the regional government provides the fishing rights at the floor price, SSF communities, in most cases, cannot afford to pay the fixed floor price. This leads them to remain indebted to private moneylenders or fish collectors in a relationship of bondage. Evidently, the influence of fish collectors or fishery business elites may negatively impact the co-management led by the SSF.

Finally, although co-management requires consultative efforts and long-term investments, the problem is that allocation of fishing rights to the community is designed annually, which leads to confusion and uncertainty for SSF in planning for fishing rights access in the future. ❧

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the decentralization. Though the Ayeyarwaddy region has its own constitutionally-sanctioned authorities to enact their fishery law, the regional government does not have full authority to control the Department of Fisheries (DOF).

Further, the constitution allows the regional government to collect revenue from inland fisheries, but the institutional structure prevents the regional government's authorities from managing the collected revenue and instead, sends them directly to the Union treasury. The second challenge is due to current practices derived from

For more

<https://dc.icsf.net/en/component/dcnews/articleDetail/11363-Myanmar--Develo.html>

Development could hurt Ayeyarwady River: environmentalists

https://unctad.org/en/PublicationChapters/aldc2017d2_ch08_en.pdf

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