

## Problem of access and rights of fishermen to water bodies in *Haor* areas: A case study

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### Abstract

This article is focused mainly on the problems of access of fishermen to the water bodies and policy recommendations for ensuring the rights over the water bodies in *haor* areas of Bangladesh. It is found that the genuine fishermen do not have legal access to the water bodies as they are not leaseholders. The water bodies are controlled by the leaseholders who are mostly politicians and local power structure groups, and the fishing is totally depended on the wishes of lease holders. Many of the fishermen do not have concrete knowledge about leasing system. There is a political influence over fishermen in general and water bodies in particular. The rights of the water bodies should go to the genuine fishermen as the occupation is occupied by them ancestrally. The Government, NGOs, environmentalists, researchers, members of civil society should come forward in establishing the rights of fishermen and preserving the fishes by maintaining the bio-diversity in *haor* areas.

**Key words:** Hoar, Fishermen, Leaseholders

### Introduction

Exercising power on fisheries is a common characteristic in tropical fisheries, which leads to conflict in this sector. Rich or influential are able to take lease by their power and influence (Thompson *et al.* 1999). Toufique (1999) pointed out that fishermen have failed to gain fishing rights under the leasing system mainly because of having right of transaction cost and are less able to enforce property rights than are socially powerful lease holders who can prevent unauthorized fishing by threat and social pressure. The landowners and local influential try to control the water bodies arguing their close proximity to the water bodies. There problems regarding access to water bodies are identified by Bennett and Cattermoul (1998), these are political influences, economic influences, kinship relations and authority-which is acquired by the basis of legal or illegal leadership. With the help of the above characteristics, some people in rural areas, especially in fishing areas pose social position. This process makes leaseholders influential in the fishing communities and landless and poor fishermen are deprived

from their fishing rights. This power dimension acts as cause of conflicts in water bodies (Bob,1996).

It is commonly seen that the lease holders create a role like *Jaminder* and make fishermen as their tenant. Most of the water bodies are leased to the highest bidder purely as a source of revenue (Capistrano *et al.* 1999). After getting right over water bodies, leaseholders used to collect taxes from fishermen to cover the government lease cost as well as to make a profit (Rahman 1991). This process continued up to 1960s. From the mid 1960s there was an attempt to reduce exploitation of fishers. A new leasing system introduced by which preference was given to fishermen co-operative societies for leasing. But in many cases the fisherman cooperative fail to raise funds did not needed to pay for a lease, nor could they enforce their right over a water bodies. So, the same class of powerful individuals maintained and control over leased water bodies (Capistrano *et al.* 1999). As a result, poor fishermen are exploited and declining fisheries of Bangladesh in day-by-day. Nevertheless the trend of profit maximization of leaseholders has created sustainability and ecological problems in many fisheries.

There is always conflict between fishermen and lease holders. Conflict also exists between land owner and lease holders. Now a day water bodies have become attractive sources to many people in respected areas. There is no doubt that this process creates different setback on the advancement of fish resources as well as the fishermen communities whose livelihood is dependent on fishing. Without restoration of access to water bodies for fishermen community; the preservation of fish resources, bio-diversity and proper utilization of wetland shall remain at stake. Given this, a study was conducted with a aim to explore different challenges and setbacks regarding the access of fishermen communities to the water bodies. Existing policies on water bodies have also been critically reviewed on the basis of the findings. A new set of policy is also recommended in order to ensure the rights of genuine fishermen to water bodies.

## Methodology

To explore the patterns of accessing power among the fishery groups and communities, case study method has been adopted for this study. The study was conducted at Nasirnagar Upazila in Brahmanbaria district. There are many *Haors* adjacent to Upazila *Parishad*. Among the *Haors*, “*Ador*” has been selected for this study. It is situated around 40 kilometers far from the distinct headquarters. In the east, Madhabpur upazila of Habijong district and in the north Lakhai upazila of the same district is located. In the west, Astagram upazila of Kisorgang is also located.

The study is based on primary data, which is collected from some specific groups associated with the subject matter of the study. The fishermen are the main sources of information for this study. There are some other people who engaged in establishing fishermen’s rights also included in the population. That includes civil society groups, NGOs representatives, leaseholders and local government officials. There is no exact number of fishermen in the study area. More over, fishermen are living in different places of the locality. Due to these reasons, purposive sampling technique has been

chosen. Seventeen fishermen were directly interviewed from the study area. Three Focus Group Discussions (FGDs) were conducted participating in fifteen fishermen each living adjacent to the *Ador Haor*. The main objectives of FGDs were to observe the fishermen in their activities, problems and the overall attitude toward their profession. The main themes included and highlighted were the access and access problems, ideas about leasing and ownership process, relations between and among the communities involved in the leasing and fishing, influences of political and power structure over the land leasing and the conditions of biodiversity.

Two FGDs were conducted in the *Nasir Nagar Gangkul Para* and one was in the *Nasir Nagar Kashi Para*. Both of the villages were close-distanced and all the fishermen catch fishes in the same *Haor* areas. All of the members were male and scheduled religious caste of Hindu community. Most of the members were at the age of 20 to 60 years old. Except one or two, all the members have taken fishing as their only profession. All the members of the group expect one person who has some education. He is not directly depended in fishing. He has been leading the community through conducting the activities of the association for a long time. Apart from the FGDs, two NGO representatives, one journalists and one local fisheries officer were interviewed through checklist. For case study method both qualitative and quantitative data are collected. For fulfilling the objectives of the study, interview schedule, checklist and focus group discussion have been administrated.

## Results and discussion

### *Personal and demographic information*

The fishermen are found in different ages. Since fishing is an ancestor's profession so all aged groups are involved in fishing. About 50 per cent of the fishermen interviewed belong to above fifty years old. It is assumed that due to their ancestor's profession, fishermen may not interest to change their profession. Almost all fishermen belong to minority community and mostly from the backward classes. They are not conscious about their education. More over, due to their poor economic background, they were away from their formal education. Almost all are illiterate but one respondent was found who completed diploma. No difference is reported between past and present occupation. The majority of respondents were married. The highest yearly income of fishermen was found to be 60,000 and the lowest was 20,000. The average family size of the fishermen was seven. They are more or less dependent on fishing.

### *Involvement in fishing and leasing process*

It is found that the fishermen can not catch fish for the whole year. Even though, lease holders may not allow all the fishermen for fishing in whole year. Lease holders also encourage non-fishermen for fishing. It is assumed that fishermen earn only few amounts through fishing. The study found that the lease holders are not genuine fishermen. The fishermen catch fish by the token (one piece of metal considered as pass for entrance into the water body) provided by the lease holders. In past, fishermen used

to get lease through DC (Deputy Commissioner) office in the name of their association. For the last three years, lease holders (mostly politicians, local leaders) have been controlling the water body and they are the original lease holders. They form Fishermen Association (mainly fake) and get lease in the name of that association. The study found none of the fishermen who have direct control over the water body. The respondents were asked who are the more beneficial from the present leasing system. All respondent uttered that leaseholders are the sole beneficial of fishing. They are being exploited by the leaseholders in many ways. Those are: they have to catch fish on the will of the leaseholder; they are compelled to sell fish to the leaseholder's people and they have to collect token at the cost of nine hundred takes for two times only for the access to water body.

Political involvement, local leadership and the mussel power are the main criteria for getting lease of the water body. The more the political power more the access to water body. As genuine fishermen are not the leaseholders of the water body, they cannot catch fish at any time. There are some other reasons like barricade of water body by leaseholders, lack of strong fishermen association, poor economic conditions of fishermen, political influences, conditions imposed by the leaseholder etc. responsible for not catching fish in all the time. The government control the water bodies that are associated both government and private lands during rainy season. In rainy season both government and private lands merged into a single water body which does not have any demarcation of land. During this time landowners whose lands are merged with government land do not have access to the water body. This is the provision and conditions of leasing process of water body. If the landowners go to the water body for catching fish, leaseholders resists them and snatches their net and other fishing materials. As a matter of fact, landowners do not have full access over the water body. Despite having ponds or *Kua* inside their land and that are naturally worked as preservers of fishes, the land owner cannot catch fish in their respective ponds and *Kua*. No conflict is reported while digging pond or *Kua*. As landowner can't catch fish in his own land so conflict did not appear between landowner and leaseholder. As mentioned earlier that fishermen are very poor. They do not have active association on their own. More over, bidding requires huge money. Due to these reasons, original fishermen may not have access to leasing. There are some other reasons like financial crisis; ineffective association; political influences; lack of administrative supports; not having political power; good relationship between local leaders and administration are also responsible for not getting lease.

The study found that the leaseholders usually do not catch fish. They mostly catch fish through the fishermen with some conditions. The fishermen wishing to catch fish have to take *token* from the leaseholder. More over, fish is to be sold to the person fixed by the leaseholder. Sometimes, they determine the price based on the amount of fish. Respondents claimed that leaseholder catches fish through fishermen from distanced water bodies. Sometimes leaseholder ignores genuine fishermen due to some reasons. They encourage non- fishermen who are mainly Muslim. The genuine fishermen consider it as punishment for them. They do not have any initiative to tackle this kind

of situation. Rather, many of them are getting frustrated towards their ancestral profession.

Respondent were asked about the reason of non-fishermen engagement in fishing process. As financial success can be achieved quickly through fishing activities, most of the people from majority community involve themselves in this profession, they observed. More over, as the fishermen community is materially poor and have less or no political and administrative connection, these people take the opportunity, easily can gain government water bodies for exploiting and depriving fishermen community who has real indigenous knowledge regarding preserving, protecting as well as harvesting of fish.

#### *Ideas about leasing and ownership process*

The study found a very poor understanding of genuine fishermen regarding government leasing laws. But only thing they know and that is leasing procedures, which have been maintained by the DC office. The fishermen community observes that there are abuses of power and resources in this process. According to the Water body Management Policy 2005, if the water body is 20 acres or more than that, the office of the district commissioner arranges its leasing process. The leasing law follows the rule to give the lease to any fishermen association. This provision works negatively in achieving fishermen's access in water bodies. In the name of fisherman association, local influential and solvent people of majority Muslim community take lease. According to the policy, individual fishermen do not have access to leasing authority/administration and therefore they have to go for access through the fishermen's association. We found the fishermen association as inactive and naturally fishermen of the study area do not have communication with the administration. We asked the fishermen why there is no function of the fishermen's association; they responded that the lack of money is the main problem. Money collected from the members of the association for bidding lease was not sufficient. Usually, they have no money in their hand in the month of March when bidding is made because there is not enough fishing opportunity then. In 1214 Bengali year they applied to the government to get lease in favor of them allowing credit money for two month but the prayer was denied and the bid was given to the non-fishermen, local elite leaseholders and the fishing land (*Folmohal*) was out of their hand.

The general fishermen are found to be so unaware that they did not know the current status of the water body. They only know that the bidding has been held in the month of March. Since 2005, the water body is occupied by the non-fishermen local elites through leasing. The local elite participate in bidding in the name of few fishermen, in few cases most of this people do not know that their name was used to get the lease. A member of the local civil society reported that the fishermen community is not conscious about the bidding. So, many of the *touts or cheats* in the towns buy the lease with a very small amount of money and they sell it in a higher prices to the village stakeholders.

The continuous losing ownership of the *Haor* is diverse and destructive for the fishermen community. They are gradually becoming bonded labor of the local elites. On

the other hand being deprived and exploited, these people are psychologically forced to be migrated and getting into contact with employment in the other fields instead fishing. This reality is known to the government official also. But due to legal barriers they have nothing to do. Collecting revenue is their obligation and therefore they apply all possible measures to leasing process if it is essential.

#### *Community relationship in leasing and fishing*

The relationships from the point of the fishermen's view with the other stakeholders have different and asymmetrical. The fishermen maintain quite peaceful, non-confliction and amiable relationship with the Muslim community living nearby to them. They have very few conflicts of interest with them. However, they have some intra-community conflict regarding the conducting their own association.

Though the richer section of the common villagers do not go for any kind of fish related involvement, poorer section of population have interest in leasing and all other fishing activities although they belong to Muslim community. These people are recruited as fishing labor by the lease holders. They are called *Maimal*. Their number is increasing in *Haor* areas day by day. The relationships between the fishermen and the leaseholders and their clients are diverse and complex. The relations depend on the opportunity of fishing, possessing and holding the fishing equipments, some secret transactions due to sharing of leasing and so on. On the part of the fishermen, who have no alternatives except fishing are comply with the wish and necessity of the leaseholders for their survival.

Many of the fishermen argued that the leaseholder never assists the fishermen. They don't give money to buy fishing-nets or boats. However, they have to keep relation with leaseholders for the shake of livelihood. They have to bear all kinds of oppression and outrage. Sometimes, some people of them keep liaison with them and spoil relation with their own community members. Despite this they are being tortured both mentally and materially by the leaseholders. They (leaseholders) frequently deprive them in different ways.

#### *Access and access problems*

Following a dispute on the ownership of leasing of the *haor* in the name of their association, the fishermen community of the study area has been barred from getting access to the *haor*. They failed to hold the leasing ownership because of shortage of money in contesting the bidding and reasonably the ownership of the water body have gone to the local rich and elite people who are not fishermen. At present, the actual fishermen are working as day laborer of the leaseholders. Only one-third price of the sold fish is distributed among the fishermen who engaged in fishing directly as wage.

The contract of fishing between lease holders and fishermen is arbitrary and restricted. The will of the leaseholders play a vital role here. They have made an advanced coupon system. After availing the coupon in exchange of a big amount of money only then, they permit to go for fishing. Moreover, the fishermen are severely levied and burdened through extra amount of money-paying for getting coupon.

The respondents were asked about the nature and types of access, uses of access, problems faced to get access and resolving the problems of access. Before introducing leasing system the fishermen were independent and could catch fish freely without any control from any corner. They also had active fishing cooperative society at that time. Now they have cooperative also but do not have full access to the water bodies. Preferences were given to genuine fishermen in leasing system before 2005. After enactment of *Sarkari Jalmohal Babastapana Nithimala 2005*, genuine fishermen were deprived from the water body. Lease holders are not genuine fishermen but they take lease in the name of fishermen. Non-fishermen earn lease through political as well as mussel powers. The study area are not an exception, it was leased to the influential Muslim people in 2005. We found local administrations' positive attitudes towards the lease holders. Due to shortage of money the genuine fishermen association fails to gain access to water bodies.

Those are economically poor also poor from psychologically. Religious minority status also expedites not to go forward for justifying their demand. More over, political victimization is also equally important here.

#### *Influences of political and power structure over the leasing*

There are number of apparatuses through which the leaseholders or their middlemen press influences over the fishermen. Those include; intimidation, beating, verbal threats and abusing, threatening for killing, crumbling down the hand or legs or threats to push back to India etc.

The political influence works in accordance with what political party is in power nationally. They control the whole mechanisms of leasing, capture the areas through their youth groups, and consolidate power by excluding the opponents from the area through their political slogan. The government officials maintains only submissive role to comply with the local political power. But, the influences of the political parties in the *Haor* are not direct. They only participate in the bidding process. They also try to resolute the disputes through arbitration rather than litigation. In few cases, the fishermen go to the police station.

The pitfall of the local arbitration is that the results of the dispute usually go to in opposition to the interests of the fishermen. Thus, the net result is zero for the fishermen. There is no direct influence over the fishermen from political and power structure but they influence through their relatives and middlemen. Political leaders control bidding process through party cadres. Weak party like fishermen may not get support from any corner, the respondents viewed. By keeping their net, the fishermen usually freed. There is no arbitration while dispute between two communities. There is a patron-client relationship. It creates with local youth, *mastan* (mostly youth) and local chairman. There is a close nexus between politicians and their middlemen. Politicians try to do everything behind the door so that others can't understand their hidden activities. Lease holders' influences are very cruel. Fishing materials usually thief by their people. In fact, fishermen are severely being tortured by the lease holders. There is

a litigation, quarrel with water body. The influential people usually get benefit through this litigation.

### **Major Findings and Policy Recommendations**

Despite being ancestrally knowledgeable and experienced in fishing profession, the fishermen community continuously detest from fishing. In fact they bear the poorest socioeconomic conditions in comparison to other people of their locality. They do not have income other than fishing. They remain unemployed almost half of the year. It is only because of deprivation from the leaseholder. This poor economic condition is connected with non-involvement in bidding process.

The fishermen have made some recommendations in order to ensure the access over water body. To survive as real fishermen, it is urgently needed to define and establish the lawful rights of the fishermen into the water body. As the pronouncement of this, they must be owned with the lease permanently or in long-term basis. They should also be provided with loan facilities as payment of bid money. If they get the lease of *Haor* permanently then all of the problems will be solved. The fishermen are ready to pay money for that. Government and non-government financial institutions should come forward with financial assistance in this regard. Loan is given to the farmer, industrialist and others. Why not for the fishermen? In this way, fishermen can participate in bidding and can lead a better life.

The existing legal process of leasing is faulty because it only serves the interests of the leaseholders as they are only capable of contesting the bidding and the fishermen are gradually evicted from their possession. The laws of leasing have been prepared and enacted without the consideration of the capability of the genuine fishermen. There is no scope of identification of real fishermen. In this process, politicians, local leaders and other influential involve in bidding process. Present leaseholders usually get maximum benefit from the water body. Given this reality only the genuine fishermen should get access of the water body. Local administration e.g. upazila administration should part of the bidding process. There is a need to change existing leasing policy in this regard. The role of government and civil societies are very much needed to overcome this problem. The civil society should be a part of lobbying to the government. They may pressure to the policy maker to rectify the existing policy so that fishermen's benefit can be ensured properly.

There is a harmful effect on fishing like destroying seed fish, flora-fauna of *haor* areas etc. It is argued by the fishermen that the fishes of many species have been decreasing for last twenty years. Even, some of the big-sized fishes are rarely found during the whole year. The chance for reproducing has also been seriously damaged because the land sizes are increasing and the deep or shallow water zones are gradually getting reduced. All kinds of fishes including the small fishes have been caught due to the use of current fishing nets. It can be predicted that fish will be disappeared in course of time. To protect the fish, government officials, fishermen themselves have a crucial role. The government officials should be very strict in implementing the existing fishing polices in this regard. The bio- diversity is destroying gradually in the *haor* areas. Many



of the water species and plants, such as, *Katabon*, *Kagra*, *Shapla*, *Salouk*, and the natural ecological flora and fauna have been destroyed. If there is *Katabon* no one can use current fishing nets. For reserving the *Katabon*, planting and nurturing their natural growth is needed. To protect all these, it is an emergency to declare the *Haor* as sanctuary of reserved zone and implement necessary action to realize them. In restoring ecological balances, nurturing of waterweeds and shrubs should be kept and maintain properly so that reproduction and feeds of fishes would be enhanced gradually. The fishermen are genuine stakeholders in this connection. Less than nine inches fish should be banned from catching. More over, during the breeding season like in the month of April to June, fishing should be totally banned from the *haor* areas. Concern government officials should strictly monitor the matter with their personnel.

Alternative livelihood projects for the fishermen community should be introduced by the Government and non-government organizations. There is a need to reduce the over dependency and over utilization of water bodies. It is essential to arrange some provisions so that breeding of fish varieties can be freed from any kind of unwanted interruption i.e. destruction of mother fishes and over fishing through de-watering process. To protect mother fishes, a grand hole should be dug in the middle of the *haor*. Special livelihood project should be introduced for the fishermen and people whose livelihood is heavily dependent on water bodies, by the government and non-government sides with a view to expedite them less involvement in fishing.

The genuine fishermen's association is not active now. It is a body in which fishermen can fight with the opponents. Their association should be strengthened within a short span of time. The unity of fisherman communities is very much needed to get their rights. Fishermen's personal initiative and the support of civil societies and NGOs are most important in this connection.

Fishermen feel that fishing is their genuine right as they belong to this profession traditionally. On the other hand, landowners claim their right over the water body. In addition, Government argued that water body is the property of the government. To remove the controversy over the ownership of water bodies, the rights should go to the genuine fishermen as fishermen have no alternatives but to fishing. To utilize the right of the water body, fishermen should play an important role. They should feel that water body is the property of the people of Bangladesh.

It is found from the study that fishermen may not get proper justice while litigation and arbitration. The fishermen claimed that government employees work in favor of the leaseholders. To establish the right of the fishermen and social justice, coordination is needed and strengthened among government employees, NGOs professionals working in the locality and fisherman community.

There is no involvement of rural power structure in leasing policy directly. The policy is constituted with government officials only. They know the bad and good of the water body. Their active participation in bidding process should be ensured. In fact local power structure can identify the genuine fishermen. Apart from power structure, local non-government and voluntary organizations also should involve in this process. The organizational capacity of the fishermen community needs to be strengthened.

More and more organization should come forward in helping and establishing the rights of the fishermen. NGOs and civil society can play an active role in this regard. There is a demand from the fishermen like *Jal Jar Jol Tar*. This slogan should be implemented properly.

Hoar has much importance in terms of fish, natural view, environment preservation, ecology and ever sources of revenue. Fish is a major source of protein which comes mostly from *haor* areas. Therefore, *haor* has to be protected not only for fulfilling the demand of our protein but also protecting our bio-diversity. In order to protect the water bodies of *haor* areas, concern people and organizations should come forward so that country can be benefited. Government should enact and exercise such policies and provisions that can benefit fishermen and local dwellers as well as the state. The proper supervision and coordination among different departments of the government are very much needed to protect the right of the fishermen and protection of water bodies. Human right organizations, civil society and environmentalists should extend their hands in favor of fishermen and protection of fishes in the *haor* areas. The fishermen are directly involved with the water body. Opportunities should be created in a way so that the fishermen can play a vital role in protecting the *haor*, fish and the dry land. Fishermen community also has huge responsibilities. They should follow the fishing policies so that disappearance of fish can be protected and ultimately, if it is ensured, their livelihood and ancestral occupation shall be protected. The whole initiatives regarding the protection of *haor* ecology needs to be converted as a social movement.

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