

LEGAL AND INSTITUTIONAL FRAMEWORK FOR FISHERY MANAGEMENT AND THE ROLE OF COMMUNITY ORGANISATIONS

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ABSTRACT

A new Fisheries and Aquatic Resources Act is to form the basic legal framework for fisheries management. The Act will provide for: the control of all major fishing operations through a licensing system; local community management in areas suffering from serious management problems; and conservation. Tough penalties are to be introduced for offenders. The Fisheries Act of 1979 allows management of the exploitation of resources in Sri Lanka's EEZ by foreign fishing vessels. The Department of Fisheries and Aquatic Resources (DFAR) was established in 1991 with a separate division for fisheries management. This is the main instrument of the Ministry of Fisheries and Aquatic Resources Development in enforcing legislation. The framework was strengthened by the addition of a Fisheries Management Unit in the DFAR, provided under a UNDP project. Information needed for management purposes is supplied by supporting agencies. Fisheries that operate with territorial use rights have long exemplified community participation in fisheries management. The participation of the resource users is essential for the efficient management of fisheries, and community organisations such as fisheries cooperative societies have a major role to play, for instance in settling conflicts. However, community participation in the management process is still limited and should be expanded.

1. INTRODUCTION

Traditional methods for the exploitation of fish and other aquatic resources have been in existence in Sri Lanka from time immemorial. Measures established for the management of these traditional fisheries date back to the latter part of the 19th century. The Municipal Councils Ordinance, the Village Communities Ordinance of 1889, the Small Towns Sanitary Ordinance of 1982, Local Boards Ordinance of 1898, Game Protection Ordinance of 1909 and Local Government Ordinance of 1920 contain legislation for the management of area-specific fisheries. The first piece of legislation exclusively for fisheries was introduced by the British Government in 1925; the Pearl Fisheries Ordinance, enacted on 12 February 1925, was mainly for the generation of revenue and not for the management of the resources as such. A permit system was introduced with the opening of the pearl fishery by Government Gazette notification. With the enactment of the Fisheries Ordinance No. 24 of 1940, legislation pertaining to the management of fisheries was consolidated.

The provisions of the Fisheries Ordinance are still being enforced, with some amendments. There are other related ordinances, viz, Pearl Fisheries Ordinance, Whaling Ordinance, and Chank Fisheries Act, but they are no longer enforced fully because they are obsolete. The Fisheries (Regulation of Foreign Fishing Boats) Act of 1979 for the management of resources exploited by foreign fishing vessels, is also enforced.

The Department of Fisheries was established in 1929, strengthening the process of fisheries management. Prior to this, fisheries management was carried out by the Director of the Colombo Museum who was designated the Marine Biologist. The Department was under the Ministries of

Local Administration (early 1940s), Industries, Industrial Research and Fisheries (late 1940s to early 1950s), Industries and Fisheries (from 1956), Agriculture, Land, Irrigation and Power (1960s) until a separate Ministry of Fisheries was established in 1970. In 1989, it was redesignated the Ministry of Fisheries and Aquatic Resources and in 1994, the Ministry of Fisheries and Aquatic Resources Development. In 1979, the Ministry of Fisheries was reorganised and took over the functions of the Department of Fisheries under the Marine Fisheries Division. A separate Division for Inland Fisheries was also set up. The Research Division of the then Department of Fisheries was upgraded with the establishment of the National Aquatic Resources (Research & Development) Agency (NARA) in 1982.

2. LEGAL FRAMEWORK FOR FISHERY MANAGEMENT

2.1 Principal legislation

The first piece of legislation was the Pearl Fisheries Ordinance enacted in 1925. It requires the opening of the fishery by Gazette notification for the issue of permits and this was done in 1983. Up to that time, there were some regulations framed under other Ordinances to manage particular fisheries with a view to resolving certain conflicts. The Fisheries Ordinance, enacted in 1940, gave a tremendous impetus to fisheries management from that time. Community based approaches in fisheries management are not new to Sri Lanka. Even in the Fisheries Ordinance, under Section 20, there are provisions to appoint a Commission to conduct public enquiries and obtain representations from resource users in conflict situations. Based on these representations and other relevant social and technological aspects, regulations were framed to manage the resources properly for several decades.

The Fisheries (Regulation of Foreign Fishing Boats) Act No. 59 of 1979 is for the management of the exploitation of resources in the EEZ of Sri Lanka beyond 35 nautical miles by foreign fishing vessels. In the early 1980s several permits were issued and some fishing operations were successful. During the last few years, because of opposition from small scale fishermen and as a result of the development of the local offshore fishery over the last decade, no more permits have been issued under this Act.

2.2 Subsidiary legislation

In the late 19th century, regulations were framed under several Ordinances for the management of certain fishery resources. Under the Fisheries Ordinance and the Fisheries (Regulation of Foreign Fishing Boats) Act, regulations have been enacted for the management of fisheries. Some of these regulations are area specific, mainly for management of resources where there are local situations of conflict. Others, such as regulations for the registration of fishing boats and purse-seine fishing, apply nationally. Sections 20 and 33 of the Fisheries Ordinance are very important from the fisheries management point of view in that the minister is empowered to frame regulations for management of fisheries.

2.3 The new Fisheries and Aquatic Resources Act

During the last two decades, there has been substantial fisheries development. Production increased to 205,000 metric tons in 1993 from 40,000 tons in the 1940s. It was found that the

provisions of the Fisheries Ordinance of 1940 were not adequate to meet the demands of this development. Therefore, steps were taken to formulate a new Fisheries and Aquatic Resources Act.

The proposed new Act consists of ten parts with emphasis on management of fisheries and sustainable development with due recognition of conservation measures. Some of the most important new provisions are (a) licensing of all major fishing operations, (b) declaration of areas for fisheries management and (c) conservation. For violation of provisions, enhanced fines and jail terms have been included with a view to introducing strict management discipline. The proposed Act is before Parliament at present.

3. INSTITUTIONAL FRAMEWORK

The institutional strengthening of fisheries management over the years is briefly outlined in Section 1. The present institutional arrangements are diagrammatically represented as in Fig. 1, which shows that the Department, as the main instrument of the Ministry in enforcing legislation, plays a major role in fisheries management. Supporting agencies such as the National Aquatic Resources Agency (NARA) and the National Institute of Fisheries Training (NIFT) are also engaged in fisheries management, providing information and extension.

The Department of Fisheries & Aquatic Resources (DFAR), under the Ministry of Fisheries and Aquatic Resources Development, is charged with the functions of fisheries management, development and the enforcement of the provisions of the Fisheries and other related Ordinances and Acts. To undertake these functions, the DFAR is organised as outlined in Figure 2. Other organisations under the Ministry assist the DFAR in the management process. For instance, NARA provides technical information based on research in the formulation of legislation.

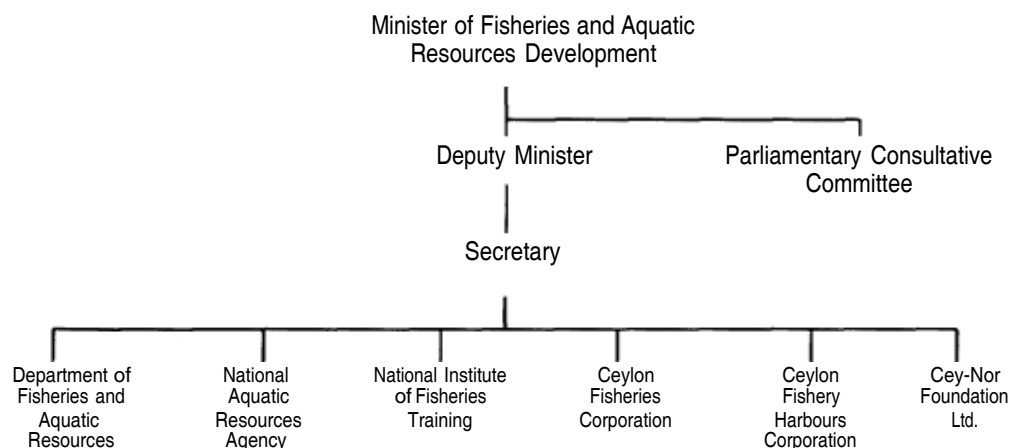


Fig. 1. Organisation chart of the Ministry of Fisheries and Aquatic Resources Development.

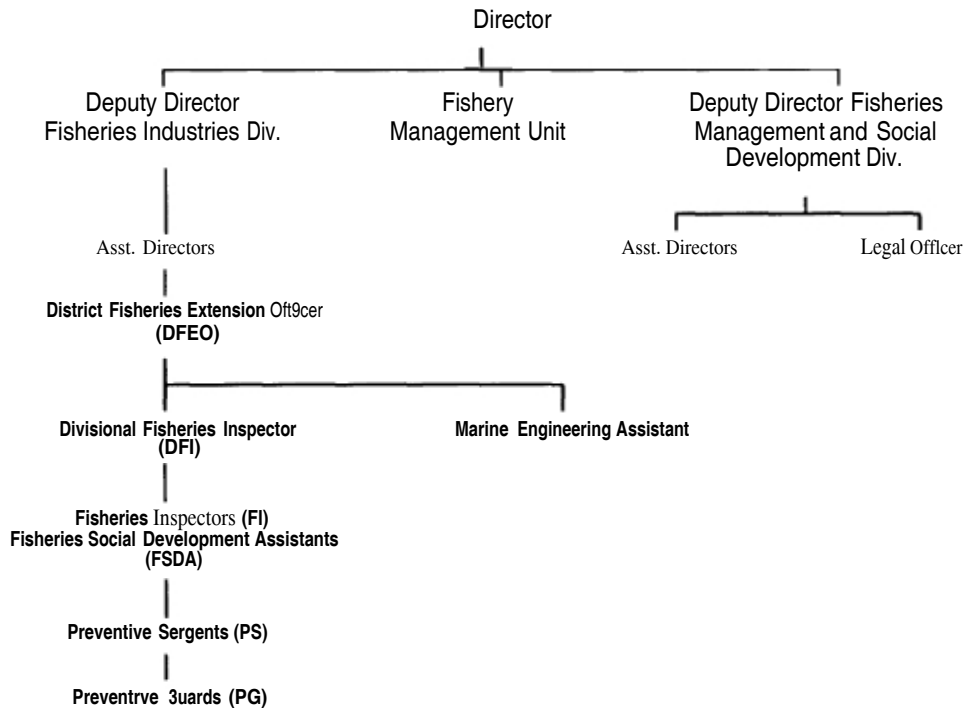


Fig. 2. Organisation chart of the Department of Fisheries and Aquatic Resources (indicating only divisions engaged in Fisheries Management).

It is through the field officers, viz. DFEO, DFI, FI, FSDA, PS and PG that the enforcement of the provisions of legislation is undertaken, once the regulations are gazetted and passed in Parliament. For instance, over 500 persons using about 80 boats illegally, were prosecuted for operating purse-seines with lights in 1993 in the Galle District.

4. COMMUNITY ORGANISATIONS AND THEIR ROLE IN FISHERIES MANAGEMENT

Fishermen have formed various community organisations in Sri Lanka. One of the oldest is the cooperative movement which was introduced to Sri Lanka in 1911. However, it was in the 1940s that the fisheries sector cooperative organisations (FCS) were formed and they are still in existence. The policy of amalgamating about 350 village level FCSs into 45 large primaries in 1972 was not successful and as a result many FCSs became defunct. In 1989, the policy was changed in order to establish village level FCSs and there are now about 760 with a membership of about 80,000, some of them functioning efficiently. In addition, there are other community organisations, some of which are fishery specific, e.g., the Stake Net ('Kattudel') Fishermen's Organisation. The village level FCSs are integrated vertically into the National Fisheries Cooperative Federation through District Fisheries Cooperative Unions.

In the management of fisheries, it is easier to deal with fisherfolk organisations than with individual fishermen. Therefore, attempts have been made to get all the fishermen and their family members in a village to join the FCS. Although many fishermen (about 70%) have become members of the FCS, there are others who have not joined.

Fishermen's Organizations, among other things, are useful in the settlement of conflicts based on rights to fish in a given area. Community-based approaches through these organisations are an important tool in the fisheries management process as the resource users themselves are involved. In Territorial Use Rights in Fisheries (TURFs), there are inbuilt mechanisms for fisheries management through the participation of the resource users e.g. the beach seine fishery and stake net fishery. Some long standing fishery conflicts have been successfully resolved with the introduction of management principles through the participation of the community. Thus, for the efficient management of fisheries, the participation of the community is essential. In the process, education and extension play a major role. If fisherfolk communities are given correct and reliable information on the necessity of fisheries management, it is not very difficult to persuade these communities to adhere to legislation which will be for their own benefit.

5. METHODOLOGY USED IN FISHERIES MANAGEMENT

With the establishment of the Fisheries Management Division under the DFAR in 1991, the basic structural framework was laid for fisheries management. This was further strengthened with the implementation of the UNDP Marine Fisheries Management Project, which set up a Fisheries Management Unit in the DFAR. Reliable data and information are required for the proper management of fisheries. A census of the fishing population is already under way and under the ADB Project, a resources survey is to be conducted in early 1995. This information is also essential for the management process.

Further, the new Fisheries and Aquatic Resources Act provides the basic framework for fisheries management. All important fisheries would be brought under a licensing scheme for the first time, effectively limiting entry to otherwise open access fisheries. An important aspect is that offshore/deep sea fisheries and related industries are available for relocation of coastal fishermen.

Another important object of the Act is to declare "Fisheries Management Areas". Areas with serious management problems could be so declared under this provision and some organisation from the local community would be designated to manage the fisheries. TURFs are already in existence in several fisheries with very effective management procedures.

6. CONCLUSIONS

1. At present the major objective is sustainable development of fisheries. The other related objectives are to expand production with a view to increasing the per capita supply of fish, and improving the socio-economic status of fishing communities. To achieve these, management of fisheries on sound principles is essential.
2. The institutional strengthening for effective fisheries management has already been done. The DFAR was established in 1991 with a separate Division for fisheries management. To

further strengthen this, the UNDP Marine Fisheries Management Project is being implemented (beginning in 1992). Supporting agencies such as NARA and NIFT provide the necessary information for the management process.

3. The historical background with TURFs in several fisheries is also important in fisheries management in Sri Lanka. The participation of the community in the management process is well exemplified in these TURFs.
4. Community organisations, whether fisheries cooperative societies or others, play a major role in community participation in the management process. To promote the involvement of the fishing community in fishery cooperative organisation, producer subsidies and other Government assistance are provided only through fisheries cooperatives.
5. The proposal for the establishment of Fisheries Management Areas under the new Act is another step towards proper fisheries management. The participation of the community is ensured with the provision in the Act for designating local organisations for the management of such areas. The participation of the resource users in the fishery management process is essential for success – management guidelines/regulations imposed from above often do not seem to work well.

Thus Sri Lanka already has the basic structure for the management of fisheries. What is needed is the strengthening of this structure, which is being undertaken under the Marine Fisheries Management Project. However, the participation of the community in the management process is limited at present. Therefore, along with the strengthening of the management capability, a more intensive participatory approach to fisheries management should be introduced.