

# Moving from Customary Fishing Rights to Co-Management: Aceh

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## **Abstract**

After the tsunami, traditional rights were wiped out in Aceh Province, Indonesia. As part of post-tsunami efforts during 2007-2010, FAO and the US Red Cross tried to recover the knowledge of traditional user rights. The program covered 160 villages along 300 kilometres (km) of the coastline of the west coast of the province. The key effort was to move the SSF from a custom-driven to a co-managed one through an elaborate participatory process. The initiative was a collaborative effort of the Food and Agriculture Organization of the United Nations (FAO) and the American Red Cross (ARC) – hereafter referred to as ‘the Program’.

## **1. INTRODUCTION**

This case study very briefly narrates one part of a development assistance program undertaken in Aceh Province, Indonesia, as part of the post-tsunami efforts during 2007-2010. The Program covered 160 villages along 300 km of coastline of the west coast of the Province. The key effort was to move the small-scale fishery (SSF) from a custom-driven to a co-managed one through an elaborate participatory process. This summary study describes the process, the outcomes and the evaluation of the initiative a few years after its completion.

### **1.1 Description of the fishery**

Aceh Province, located at the northern tip of the island of Sumatra in Indonesia, grabbed world attention after Christmas Day of 2004. On the morning of 26 December 2004, a gigantic and unprecedented earthquake with a magnitude of 9.0 on the Modified Mercalli scale struck. It was followed shortly by one of the largest tsunamis recorded in human history. These events took human lives by the hundred thousand and severely damaged property as well as livelihoods, valued at several billions of US dollars. It has been estimated that in Aceh as a whole, between 15-20 percent of the total number of fishers died in the tsunami, meaning about 14 100 -18 800 individuals. Many fishing vessels were destroyed, and a major part of the fishery infrastructure was partially damaged and often beyond repair. What may be considered a ‘gift of the tsunami’ was the political autonomy that was given to Aceh Province by the central government through the Law on Governance of Aceh (LOGA). This newfound status was the result of a long and protracted political and armed struggle.

The fishery of Aceh was a beach-based, SSF before the tsunami and continued to remain so after. According to the Department of Ocean and Fishery, in 2001 there were 11 288 fishing boats. Of this total, 88 percent were small-scale – either non-motorised or fitted with an outboard motor. As of 2004, the year of the tsunami, the number of boats had increased to 15 576. However, by 2008 the number increased to 17 584, reflecting the largesse of the post-tsunami development assistance. The share of the larger-scale boats increased from 12 to 20 percent. However, by 2011 the number of boats in Aceh dropped back to 15 995 as a result of the ‘mortality’ and ‘disuse’ of the poor quality and inappropriate gift boats. No resource assessment has been carried out, but the increasing number of boats has led to overfishing, especially for the valuable demersal resources.

## **1.2 Economic contribution and social implications of the fishing activity**

Fisheries is an extremely important source of livelihood in the coastal areas of the Aceh province. In many places, it is the only source of employment. Fish is also a major source of food in the province, and hence, there is a vibrant domestic market. Some products, such as lobsters, shrimp and tuna, are going through Chinese traders to Singapore from where they find their way to other international markets. The eastern coastline of the province, being close to Malaysia (separated only by a narrow strait) also results in a vibrant trade of all varieties of fish between the two. Coastal communities are organized in distinct socio-ecological units called 'lhok', of which there are 173 in the Province. These units form the basis for the fishery occupational and cultural pillars of the communities.

## **2. MANAGEMENT OF THE FISHERY AND RIGHTS-BASED APPROACH**

### **2.1 Brief history of the former rights-based approaches used in the fishery**

The coastal commons of Aceh Province (the erstwhile 16th century Sultanate of Aceh) in Indonesia was governed by a customary institution called the Panglima Laot (Sea Commander). The Sultan of Aceh set up this four-century-old institution as a coastal naval protection force. Each Panglima had a socio-ecological territory, composed of land and sea space, usually including the delta of one of the numerous rivers flowing to the sea from the nearby hills. This territory is called an 'lhok'. The Panglima commanded his coastal fleet, which was operated by the men of his territory, and he reported directly to the Sultan. It is worthy of mention that the wives of Panglima were also brave seafarers. One of them, Keu Malahayati, in the late 16th century even rose to the rank of Chief Admiral of the Sultan's navy! In time, when the naval priorities of the Panglima Laot (hereafter PL) ceased, they gradually became the leaders of the coastal communities of Aceh Province. The PL is always elected by the group of skippers of the village. Today, there are totally 173 PL in Aceh. Being a customary institution, there are no written rules; custom and norms are living law – referred to as 'Hukum Adat Laot' (Customary Law of the Sea) and passed down from one Panglima to the next.

The main realms of authority of the Panglima concern: the allocation of fishing space and fishing gear; care of the coastal zone resources such as corals, mangroves, beach grass, sand dunes, trees meant as wind-breakers; and most importantly, fishing-related conflict resolution. The institution has always functioned in an open and transparent manner and remained outside the influence of the secular and religious authorities. It is not well known to the world outside that Aceh was the "troubled province" of Indonesia. The Indonesian Army had, for over three decades since the 1970s, been engaging the Free Aceh Movement (also known as GAM) which was fighting for the control of the natural resources – oil, gas, forests, fisheries – and the independence of Aceh. The Province was often placed under military rule.

Several thousands of men, women and children were victims of this long and protracted, low-intensity war. Aceh was a no-go zone for foreigners. Finally, a Peace Agreement was on the anvil, mediated by Prime Minister Ahtisari of Finland. It was signed in Helsinki in October 2004 and it was a compromise deal. There was no independence; only autonomy, and the possibility to maintain the long-standing hukum adat (customary laws) in the governance of the Province. Two months later, the great earthquake and tsunami struck Aceh on that fateful morning of 26 December 2004. The whole western coast of the Province was devastated. Whole coastal townships and villages swallowed up by the ferocious waves. Many PL was spearheading the operations of getting people away from the coast and onto higher ground. Many fishers were at sea that morning. Their boats were buoyed up by the gigantic wave. But they remained oblivious of the devastation which is wrecked on to their villages on land. As many as 22 of the PL of the western coast of Aceh perished in the tsunami. Within a few weeks of the tsunami, in each

coastal village, a new leadership was elected by the remaining population. However, they were in no position to replace the huge repository of unwritten customary knowledge that was suddenly lost forever.

The task of managing the post-tsunami coastal commons in the face of this big knowledge vacuum was a major challenge. This was particularly relevant in the realm of local conflict resolution. The ability to resolve local conflict without the intervention of other authorities – secular or religious – was an important way of asserting their collective rights to the resources over which the conflict was resolved. This right had to be maintained at all costs. The option of writing down the rules and procedures of the conflict resolution process was out of the question. “Once custom is written, it ceases to be living law!” said a senior PL (personal communication). One of the big tragedies of the tsunami was the death of several of these customary leaders who were the repositories of this customary knowledge. Given the circumstances, many younger men, who were not full-time fishing skippers, were elected. At the same time, the coastal community’s immediate intention was to ensure the survival of this important social institution. Aceh had, pre-tsunami, been politically isolated from the Indonesian mainstream; customary context had given the SSF a sense of cohesion, identity and autonomy of practice. In the post-tsunami context, these were major factors in promoting collective action towards co-management.

## **2.2 Management of the fishery**

One part of the Program during 2007-2010 was to negotiate the fishery towards being co-managed, rather than custom-driven. The process of negotiating co-management initially involved a three-fold strategy: (1) awareness creation, (2) capacity building and (3) field action. Those who participated as the key interest groups included young men and women from the coastal community, the members of the PL, and the representatives of the state (primarily staff of the fishery departments (DKP)). As many as 400 individuals from the aforementioned groups were directly involved in all the aspects of the strategy for over a period of three years (2007–2010). Some of the important details of the different awareness-raising, capacity building and field action programs initiated are summarily described below.

## **2.3 Awareness-raising**

Awareness creation products were widely disseminated in the coastal areas to highlight the meaning and relevance of co-management. The products used idiomatic expressions found in Acehese culture and Islamic teachings to sensitize people about the need to work together to ‘Sustain the Sea.’ The services of the PL network were ensured for the dissemination of these products. Following this awareness campaign, the key leaders of the village – customary, religious and official – were contacted with the idea of a training course for young men and women of the communities. The criteria for selection were mutually agreed upon, which ensured collective support for the selection process and a moral obligation for the youth to serve the community after the training.

## **2.4 Capacity building**

Capacity building programs were undertaken for all three key interest groups. A three-week training course for youth on community organization and the technical and social aspects of fisheries co-management was organized. It was composed of knowledge inputs and a learning-by-doing process involving a participatory pedagogy. The course was titled ‘Youth for Responsible Fisheries.’ Seven rounds of training produced a cadre of 164 youth (33 women). They went back to their villages to play the role of ‘creative irritants’ in the formation of the new co-management organizational centres. As a group, they were named Motivator Masyarakat (Community Motivators) or MM for short. Capacity building of the fishers later took the form of meetings and workshops at the provincial and district levels. The PL had earlier taken an ‘adversarial’ position vis-à-vis the state during the three decades prior to the tsunami, and hence the idea of collaborating with the state was not readily acceptable to many of the individual

PL. As custom provided the coastal community with an 'identity', it was important to continue fostering customary practices which helped to assert the rights of the coastal community over the fishery resources. Most important was the role of conflict resolution on matters relating to the fishery for which the PL authority was accepted by the police, navy and the civil administration.

Most of the fishery officials had no prior fishery education or training. Many of them were reluctant to visit the coastal areas, shy of exposing their ignorance to the community and the PL. A small group of key officers were selected for a study tour of neighbouring Malaysia to expose them to the fisheries management approach of that country. The trip convinced them about the need for greater resource management and conservation in Acehese fisheries and the significance of coastal community participation.

Short fisheries co-management courses - using the pedagogy of 'group discovery of realms of ignorance' - involved role play, case studies and games, making the process of overcoming one's ignorance and lack of knowledge an enjoyable endeavour. The training focused on the significance of SSFs and the four components of management, including conservation, regulation, allocation and rejuvenation. The role and challenges of multi-stakeholder fishery governance in the new Aceh political context was also debated. The training was intentionally devised to highlight that inter-district coordination is more important for managing a mobile and fugitive resource like fish than it is for land based activities. The personal rapport developed between the officers of the districts was a significant factor towards fostering future cooperation. In addition, the rapport that these officers developed with the Program staff greatly helped the latter when facilitating co-management initiatives.

## **2.5 Field Action**

As the first step towards putting fisheries co-management into action, an informally constituted co-management forum was set-up in each district. The lead role in putting together this initiative was taken by the cadre of trained MMs in each district. The forum became a vehicle for getting the PL members, fishery staff and the authorities involved with general administration and governance of the district and villages. They discussed the finer details of putting co-management into action, with the main outcome being the initiation of five fishery co-management centres in different parts of Aceh's west coast. A legal framework for governance was also constituted as a decree of the Bupati (District Head). Although the decree had a very lowly position as a legal instrument, it served as authorization for exercising rights over a designated space.

## **2.6 Rights-based approach: allocation and characteristics**

The five co-management centres commenced at different points in time between 2008 and 2010. Each centre had its specific 'spark of origin.' The first one, located in a district which was hugely battered by the tsunami, was created under the infectious enthusiasm of a few MMs who were able to rally the village head and key persons of the other interest groups (PL and fishery officials). The centre functioned to protect a large bay in which the coral eco-system had been destroyed by the tsunami, thereby causing a big loss of fishery livelihoods. A major initiative was undertaken to rejuvenate the corals, to quickly heal the eco-system and bring back the fish. This centre quickly became the 'model' and even attracted the attention of the Governor of the District, who gave full support. The women from the coastal community linked up with the centre to start a flourishing savings and credit scheme, too. The scheme provided funds to their fisher husbands to buy new, selective fishing gear and re-start their livelihoods in the healed eco-system.

A second centre, which was located near the capital city, was the result of the championing of a very respected, elderly PL. He rallied together with the MMs in his lhok along with some officers who visited Malaysia. Together they set out to promote safe, legal and responsible fishing practices, to link up with the tourism industry on the beach (this would protect the coastal zone resources on both land and sea), and to promote safe and responsible domestic tourism that would become a market for the fish caught by the local fishers. Local NGOs and the university also soon pitched in to support this center.

Yet another centre was formed by the initiative of a woman who was Head of the Fishery Department. This was a means of challenging the growing menace of the destructive mini-trawls which had taken root in her district in the post-tsunami phase. She called a meeting of the co-management forum to discuss the issue. The MMs in the district wholeheartedly supported her, and the PL of one village along with his group of fishers took on the challenge of organizing collective action to stop mini-trawling. The small-scale fishers of the district joined hands, and the political elite of the district was compelled to ban mini-trawling. They offered fishers alternative fishing gear, in exchange for stopping the destructive activity of mini-trawling.

The formation of the other two centres was based on more formal circumstances in which the MMs and the PL took the lead, but with less support from the trained fishery officers.

The Program provided support to all the five centres by providing personnel who would oversee the coordination of activities, help establish organizational systems for the functioning of the new centres, and arrange for exchange visits across the centres. They also helped in documenting some of the actions in written and video formats that were then circulated widely in the Province.

### **3. CONTRIBUTION OF THE NEW RIGHTS-BASED APPROACH TO ACHIEVING SUSTAINABILITY**

#### **3.1 Sustainable use of the resources**

The traditional PL system of management was efficient in guaranteeing a sustainable use of the resource. However, with the death of the traditional leaders due to the tsunami and with the arrival of new and bigger boats through development assistance after the tsunami, the system was disrupted, and overfishing occurred prior to co-management. With co-management, resource exploitation became sustainable again.

#### **3.2 Viability of the fishery**

Fishers in Aceh sell their product at a very low price, in some cases at less than 10 percent of the final price of the product once it reaches the final consumer. The middlemen do not disclose the value of the fishery products in the national and international market. The creation of a price information system, implemented during the first years after the tsunami, helped the fishers to achieve a better understanding of the real economic value of their fisheries and better negotiation power with the middlemen and exporters. Unfortunately, the price information system was discontinued once the foreign assistance came to an end.

#### **3.3 Social equality**

The initiative of the Program and the resulting participatory creation of the new co-management centres had both social and political fallouts. The most important fallout was that the combination of awareness creation, capacity building and field action is undertaken for key interest groups in the fishery resulted in the formation of new alliances which sought to base their action on the strong customary base of the fishery (PL), but then to gradually bring in elements of a new approach to fisheries management in which

the community and the state played equal roles. While this new arrangement did not alter the tenure rights in the coastal fishery, which resembled a form of TURF with regulated open access in each lhok, it significantly altered the governance of this erstwhile customary system. The social implication of the involvement of youth and women of the community in this process was a meaningful step towards empowerment and confidence. This resulted in greater openness to new organizational arrangements, alliances, technology and so forth. The participation of the state helped to demystify its role in natural resource management.

#### **4. MAIN CHALLENGES AND WAY FORWARD**

##### **4.1 Challenges for the fishery**

There were also complications that come with any multi-interest group form of governance, such as the element of power, the overlapping identities, and the conflicting socio-cultural and political interests. Such influences did result in forces of corruption that altered the 'neat theoretical arrangements' of co-management. In the case of the five co-management centres, as many as three succumbed to these influences after 2012. The Program was closed in mid-2010. In 2013, an informal review of the centres was undertaken by the International Collective in Support of Fishworkers (ICSF) as part of the preparatory initiatives for the drafting of the FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication (SSF Guidelines). Representatives from all the five co-management centres initiated at the time of the Program were invited to discuss. The main outcomes of this review are presented in section 4.2 below.

##### **4.2 Improving fishery sustainability in the future**

From the ICSF's review in 2013, the following discussion points emerged:

- There was a consensus that the centres provided a fresh set of institutional initiatives within the context of the post-disaster vulnerabilities, as well as the new emerging challenges of the socio-political situation in Aceh after the Province attained autonomy.
- There was agreement that collective action by communities and the state to rejuvenate resources and revive livelihoods gave coastal people confidence and revived hopes for a better and sustainable future. The outcomes from the conservation of coastal resources led to the community believing that protecting and rejuvenating nature was possible by collective efforts with the participation of different interest groups.
- There was an acceptance that collective action to create such endeavours is an important therapy for coastal communities recovering from the trauma of the disaster and/or conflict. These post-event scenarios also provide the possibilities for establishing new relationships between people and the resources of the sea.
- It was accepted that the functioning of the co-management centres was overtly and covertly influenced both by the form of decentralization policies of the central government and the dynamics of the new political processes within Aceh and Indonesia.
- Lastly, there was a consensus that between 2008 and 2012, the centres were 'facilitators' that created the enabling conditions for any member of the community, whether it be youth, women, and men, particularly fishers, to take actions that assisted them in pursuing livelihood options of their choice. Such actions could be individual or collective.

The centres had, in varying degrees, asserted their legal rights over space and resources and ensured that sustainable and responsible fisheries were undertaken. It was evident that their sustainable continuity

depends, inter alia, on appropriate moral leadership and some degree of continuity in the state's political and executive arms.

As there was no formal assessment of the material changes that had been achieved because of the centres, it would be inappropriate to make any strong statements about the outcomes and impacts it had made on improving assets, incomes or food and nutrition security. Nevertheless, a consensus was reached on the fact that the sudden termination of the 'facilitation process' (due to the closure of the Program) was an important element in the faltering of some of the centres. Clearly then, exit policies of international assistance programs must envision and provide support for some minimal, follow-up, post-exit activities.

Another interesting issue that can be replicated in other regions and countries of the world is: how then, could these improved practices and user rights be communicated to the younger generations? On this question, several suggestions were on the anvil such as popular drama, song, puppet shows and traditional storytelling. But none of these was adequately appealing to the youth. Finally, the suggestion for a full-scale movie with the favourite Bollywood formula so appreciated in Aceh – comedy, love, and moral lesson – was embraced wholeheartedly.

The famous film comedian group of Aceh, Empang Breuh, agreed in principle to take up the challenge. The script for the film was discussed with academicians who were well-versed with the hukum adat laot (customary sea law) and one among them with experience in film script writing offered to produce a draft. The focus of the script was to be on the role of the PL in conflict resolution, highlighting the mechanism of the adat court (customary court) in this regard. The idea was to assert the legal authority and autonomy of the PL in keeping with the new recognition given to customary institutions in the context of the post-Helsinki Law on Governance of Aceh and the Qanun on Customary Institutions promulgated by the Aceh Parliament in 2009.

There had to be an assurance that all the concerned participants would be fully committed to this novel means of reviving custom. To ensure this, the film was made fully participatory. An agreement was arrived at with the film's director that he would cast the whole PL team of elders in the film in their real role as adat court members. He was also encouraged to take on as many other people as possible from the youngsters in the coastal community, officers from the Fisheries Department, the Navy and Police after giving them the appropriate screen tests! The end result of this initiative was a great sense of ownership and pride in the film across the whole range of stakeholders in Aceh. The film was a great commercial success. Over 25 000 DVDs were sold in two months of its release. (Post-tsunami there were no movie theatres in Aceh) It was also selected for the International Fisheries Film Festival held in Lorient, France in March 2010. Independent assessments among the viewers in Aceh clearly indicated that it succeeded in its purpose of creating awareness about the customary adat law; the role of the PL as its guardians; the manner of conducting an adat court to resolve conflict; and the important measures to be taken to achieve responsible fisheries in Aceh.

The decision of the Program to go for a non-conventional organizational structure involving multi-interest groups was consciously taken, to test out the collective action possibilities for introducing co-management of a natural resource in a free and autonomous Aceh Province. The above brief review reveals both the prospects and the dilemmas, as well as the incomplete transition. They are some points of consideration for the way forward.

#### **4.3 Two main lessons learned**

1) Development assistance dealing with user rights has to be long term, embracing at least a 10-year life cycle, and it should have clearly defined exit policies. These exit policies must envision and provide support for some minimal, follow-up, post-exit activities.

2) Changes in user rights have to be communicated to the public and to the youth, and the use of popular film stars and film scripts is a good way to communicate the philosophy of improved management and sustainability of fisheries resources.