

From individual rights to community commons Cambodia's Community Fisheries Initiative

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Abstract

Defining tenurial boundaries and proving rights in an aquatic milieu is a daunting task. This is further confounded when dealing with a dynamic land-water interface marked by significant seasonal fluctuations. Yet, taking advantage of its overriding tenure over all such terrains, the state reserves the right of granting tenure with differential bundles of rights to individuals or riparian communities to access and manage such fuzzy interfaces. The current fishery rights system in Cambodia is the most extensive and well-developed system of community fisheries in the world. In Cambodia, the tenure rights were initially given to individuals. This system held for many centuries. But, in 2000, a bold initiative in Cambodia in South-East Asia became a trail-blazer when individual rights were replaced with community rights in this regard. The case study very briefly narrates this unique case of top-down creation of community fisheries in an inland fishery in Cambodia. It provides a brief evaluation of the current status and indicates the likely trajectory into the future.

1. INTRODUCTION

1.1 Description of the fishery

Cambodia's vast aquatic milieu is part of the larger Mekong River Basin and its fertile floodplains. At the heart of this area is the Tonle Sap Lake, the largest freshwater lake in South-East Asia and the most productive and bio-diverse freshwater zone in the world. The Tonle Sap River flows out from the Lake and joins the Mekong at Phnom Penh, the capital of Cambodia. During the peak flooding season from June to September, the seasonal monsoon causes the Mekong and its tributaries to spill out of their channels. The flooding is so heavy that the flow of Tonle Sap River is reversed back into the lake, inundating huge areas of forest and grassland across the country. When this happens, the Tonle Sap – now designated a UNESCO Biosphere Reserve – grows from about 2 500 km² to cover over 16 000 km² or roughly 7 percent of Cambodia's land area.

1.2 Economic contribution and social implications of the fishing activity

Tonle Sap teems with fish that nourish Cambodia's population, making them the world's largest consumers of inland fish. Fish is the major source of protein for the country's population, and it provides seasonal employment to over a million individuals directly; many more are indirectly employed.

2. MANAGEMENT OF THE FISHERY AND RIGHTS-BASED APPROACH

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

In 1873, the French Protectorate introduced tenure rights to the most productive parts of the Lake by auctioning licenses to individuals to erect fish enclosures called 'fishing lots' over vast areas of the lake. The Tonle Sap was also mute witness to the genocide of the Pol Pot regime in the 1970s. The populations around the Lake were uprooted and scattered far and wide to realise his dream of making a communist state, based exclusively on a rice-growing proletariat that subsists on state welfare. Many Vietnamese fishers and Khmer farmers who were educated and fishing lot owners were killed for fear that they would

rise against the state. Fishing came to a standstill. The vicious regime of Pol Pot was defeated in 1978. Cambodia slowly returned to the democratic mainstream in 1993, but only after over a decade of 'socialist' rule. The fishing lots gradually reappeared, and their auctioning by the state was revived as it did form sizeable – between USD 2 and 3 million per annum. Fishing lot owners became a rich and privileged group, and many former military men also got involved. They jealously protected the lots from ingress by the large displaced Khmer peasant population who settled around the Lake after Pol Pot. Conflict over access to fish became endemic. Many deaths were reported among riparian communities as a result.

This situation changed drastically in October 2000. Cambodia's Prime Minister made an unexpected announcement cancelling half of all fishing lot licenses of a few hundred powerful individuals. He turned over the rights of access to thousands of poor rural families to harvest the fishery resources for food and livelihood. This action led to important political rewards for the Prime Minister in the 2003 elections. It was a state-sponsored, aquarian reform backed with the highest level of legal protection, with the pronouncement of a Sub-Decree. The Fisheries Administration (FiA) was asked to start a Community Fisheries Development Office to assist the riparian communities set up new community fisheries institutions (CFi for short). Civil society organizations and international development partners were encouraged to help too.

Meanwhile, spurred by the new freedom to access the resources, many communities, sometimes with the help of NGOs, initiated the process of creating new Cfi. They submit to the local Fisheries Administration a 'petition of interest' that is signed by interested members and enclose a hand-drawn map of the proposed area of their commons usually composed of a dynamic land-water terrain. The Administration investigates the claim, conducts a needs assessment with the petitioners, arranges for a rough check of the boundaries and then gives a tentative approval or rejection notice in 30 days. If approval is obtained, the Fisheries Administration sets out to disseminate the rights and responsibilities of the interested members, as spelt out in the Sub-Decree.

Noting the small but significant nutritional, economic and social benefits that widely accrued to the communities from his earlier policy pronouncements, the Prime Minister completed his reforms in 2012 by taking over the remaining half of the fishing lots. Some were converted into exclusive conservation zones in the Lake, in his words "to protect the lake's pressured wild fisheries on which tens of thousands of subsistence fishermen rely."

2.2 Management of the fishery

Fisheries management within the designated areas of the Cfi in the Tonle Sap is trusted to the Cfi. The Fisheries Administration is responsible for the conservation zones within the Lake. Today (2018), there are over 550 Cfi in Cambodia. The majority are around and within the riparian districts of the Tonle Sap Lake. In the country as a whole, the Cfi area covers over 850 000 hectares spread across 19 of the 25 provinces of the country. There are 188 000 members of which more than 61 000 are women. Not all the Cfi in Cambodia function as 'lively commons.' About a fifth of them remains 'empty shells,' for lack of leadership and timely support from civil society and development partners. The framework for a modern commons and the rich collaboration of thousands of commoners in the last 18 years has already created a huge corpus of social capital that can be tapped into with good facilitation and support.

2.3 Rights-based approach: allocation and characteristics

To obtain formal recognition of their Cfi from the Ministry of Agriculture, Forest and Fisheries, the Cfi must firstly form a general assembly. This assembly initiates a democratic process to decide on a name

for their CFI, to frame their objectives, internal rules and regulations, and also to elect a managing CFI Committee from among the members. A list of name of all members and the Committee is then prepared. To produce an accredited map, the CFI area is physically mapped together with the Administration and neighbouring communities, to hedge against potential future boundary disputes. The local administration, competent NGOs and technical agencies often help with financial support and mapping skills. Additionally, the use of orthophoto mapping technology – with assistance from international development agencies – has been widely reported. Large cement boundary markers are placed at points which are perennially underwater.

Having attained formal recognition with the Ministry, a CFI has the exclusive use and management rights to the fishery domain within their mapped jurisdiction, for an officially recognized period of 3 years; this period is renewable. Fishing in the CFI is strictly meant for subsistence, and only very small-scale nets and traps (designated as ‘family-scale’ fishing gear) are legally permitted. Consequently, the risk of overfishing is minimal in this salubrious and highly productive eco-system.

Each CFI is required to prepare their own management plan to chart out how they will utilise and conserve their common domain and its resources. This plan includes a careful inventory of the different eco-systems in the area. It also lists the fish species diversity and seasonal patterns, the total fishing assets available with the members, and provides a rough assessment of the sustainable resource yields that can be harvested. All the commoners of the CFI are duty-bound to protect their commons from harm. Formal patrolling groups composed of members are active in all CFI.

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

3.1 Sustainable use of the resources

There have also been tangible improvements in the local ecosystem through the collective efforts of the CFI members to protect the flooded forests, plant mangroves, stop destructive fishing and pursue other conservation measures. The structured role of women in the CFI committees provided new avenues to bring in gradually more gender equality in the communities, too. Now some of the best functioning CFI are marked by a higher level of participation amongst women.

3.2 Economic viability of the fishery

An assessment made in 2012, of the 450 CFI established by then, demonstrated that the aquarian reforms resulted in a much wider spreading of the benefits gained from the huge teeming fishery resources of the Lake -- and also the other riverine and marine areas brought under the CFI regime.

Leading the list of benefits was the greater quantities of fish consumed by the rural population, in particular children. Secondly, the use of the small cash incomes from the sale of fish contributed to a range of family expenditures, including children’s schoolbooks, minor health costs, small home repairs and rice in the lean season. For the rural communities, such as small but crucial expenses may carry significant differences in their lives. Knowing that all this comes from resources over which they have collective control is a great source of empowerment for the communities. This is an important factor that motivates them to conserve, regulate, allocate and rejuvenate their fishing areas and related eco-systems (flood plains, flooded forests, mangrove areas, etc.).

3.3 Social equality

The governance of their CFI has thrown up new leaders, reinforced the merits of collective action and made a significant dent in the ‘trust deficit’ that prevailed due to periods of conflict and war. Earlier, the

benefits from the fishery were taken by a few hundred individuals. Today, they are widely distributed across many hundreds of thousands in the rural Cambodian hinterlands where poverty was very high.

4. MAIN CHALLENGES AND WAY FORWARD

4.1 Challenges for the fishery

There are many challenges to overcome. These include the important bane of illegal fishing and the conflicts that arise from it. There are dispute settlement procedures and graded sanctions in place, but the will of the community often pales before the might of the powerful.

Another issue of concern is the 'restrictive' definition of the organization as a 'fishery' institution when the clear majority of the community only fish for consumption but depend on agriculture and other service sector activities for their main livelihood.

In the current reality, there are already threats to the eco-system, changes in food habits and new competing elements entering the cultural realm. The majority of these threats relate to the assault on the eco-system: the conversion of flood plains to agriculture; the damage to the flooded forests; the destruction of mangrove swamps and mudflats; the reduction of river flow due to erection of barriers and construction of dams; the use of illegal fishing gear, and destructive fishing methods. Much of this assault on nature is undertaken with the patronage of powerful economic interests, often with political backing.

4.2 Improving fishery sustainability in the future

Fish is an integral part of Cambodia's aquatic eco-system, an indispensable component of its people's food intake and an essential part of Khmer cultural identity. As long as this remains true, there will be a role for Community Fisheries in Cambodia where community-based collective action to sustain and manage aquatic eco-systems is the basis for equitable benefits to individual members. If Community Fisheries are to survive, though, they will have to take more affirmative collective action to guard their domain and the resources within it.

Community Fisheries were created in 2000 in a particular socio-political context. Both the riparian communities and those at the helm of political affairs who heralded the reforms into existence reaped the rewards from the reforms that created Community Fisheries. As long as this convergence of interests continues, Community Fisheries in Cambodia have a future.

However, empowering Community Fisheries to become vibrant democratic people's organizations, living up to the narrative of the SSF Guidelines and guaranteeing a bright future for the aquatic eco-systems, fishery resources and members of riparian communities will depend on many factors. Importantly, these include:

- A genuine commitment to democracy and concern for the livelihoods of the rural poor on the part of the political establishment;
- A strong belief in the viability of Community Fisheries on the part of the Fisheries Administration;
- Coordinated support of civil society organizations to promote self-reliance of the Community Fisheries; and
- An emergence of more committed leaders and enthusiastic young membership within the Community Fisheries.

The direction of events in Cambodia in the immediate future will reveal which way the dice are loaded for Community Fisheries and the riparian communities.

4.3 Lessons Learnt

One of the most important lessons from this case study is that political will, backed by supportive legislation and bottom-up community participation, is the bedrock for radical transitions of tenure from individual rights to community rights. Democratic participation and the role of women are important ingredients for sustaining community rights. The support of civil society is another element.

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