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FISHERY REFORMS ON THE TONLE SAP LAKE: RISKS AND OPPORTUNITIES FOR INNOVATION¹

The prime minister's announcement in 2012 to abolish the system of private freshwater fishing lots has brought a second wave of reform to the Tonle Sap Lake, the heart of the most productive fishing grounds in Cambodia. While increasing the area available for community fisheries and the area designated for conservation, the reforms nevertheless introduce an array of new institutional challenges and new risks of conflict.

This brief highlights insights from an action research and dialogue process aimed at understanding these risks and opportunities and supporting local innovations to address them. The process culminated in a Lake Basin dialogue on 19 December 2012 hosted by the Fisheries Administration (FiA), which brought together community fishery representatives, local government officers, civil society groups, non-governmental organisations (NGOs), and officials from a range of agencies.²



A consultation on current fisheries management issues in Phat Sanday commune, Kompong Thom province, 5 January 2012

Reform, Risks, and Opportunities

Two waves of reform share similar goals but different contexts. Cambodia's recent freshwater fishery sector reform, instigated at the top level of government, is one of the country's most significant contemporary policy developments addressing natural resources management and rural development. Implemented in two main waves, the first took place in 2000-01 when 56 percent of

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² The Tonle Sap action research and dialogue process was co-organised by CDRI, Fisheries Administration (FiA), WorldFish, and ADIC as part of a larger, cross-regional programme financed by the German Federal Ministry for Economic Cooperation and Development (BMZ), called "Strengthening Aquatic Resources Governance: Institutional Innovation to Build Livelihood Security and Reduce Conflict in Lake Victoria, Lake Kariba, and Tonle Sap/Lower Mekong Eco-regions". Additional partners include Adelphi Research in Berlin and domestic NGOs FACT and HOM, supporting local innovations in Kompong Thom Province. A full report is forthcoming.

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fishing lot areas in the Tonle Sap Lake were released for community access. In early 2012, the second wave of reform culminated in the complete removal of all inland commercial fishing lots. This final step was hailed by international organisations and local civil society groups as well as local communities and local fishers, whose livelihoods are largely dependent on fisheries in the Tonle Sap Lake. The reforms have provided new opportunities for co-management of fisheries resources to improve local incomes, food security and livelihoods, though illegal fishing and use of fisheries resources remain serious problems.

The fisheries reform in 2000-01 happened at a time when commercial fishing was dominant on the lake and issues of physical access and conflict between local fishers and lot operators were at a peak. This shift from large-scale commercial management to decentralised community-based resource management led to marked changes in user rights. The reform gave local fishers more opportunity to catch fish and improve their income, yet also aimed to protect fisheries resources. In practice, these goals have sometimes competed – a tension that continues in the current phase of reform.

The 2012 reform was intended to build on the previous reform, and came as part of a broader campaign to address recurring conflicts around the Tonle Sap Lake. The issues at stake included demands for expanded access by communities to certain areas, decreasing fish catches, and ongoing disputes between fishers and lot operators. Also important was recognition on the part of government that revenue generated by the commercial fishing lots had become less important to the national economy than the livelihoods sustained by small-scale fishing.

A rush to institute new regulations yields confusion and discontent. In both waves of reform, the release of the lots was declared first and formulation of a mechanism on how to manage the newly released areas followed. The first reform introduced a period of effectively open access, then several years of experimentation with community fisheries. Feeble legal framework, however, led to loopholes that allowed the continuation of commercial fishing and virtually excluded small-scale fishers from the more lucrative fishing grounds. In the 2012 reform, new legal instruments and decisions on re-

delineation of fishing areas followed only a few months after the prime minister's announcement. In addition, multi-sectoral task forces were created to respond to widespread large-, medium- and even family-scale fishing that was considered both illegal and destructive. The reform resulted in the designation of over 65 percent of the released areas for management by community fisheries (CFi) and about 35 percent for conservation purposes.

Many welcome the permanent withdrawal of commercial fishing lots, but numerous inconsistencies and contradictions between the new sub-decree, some articles in the Fisheries Law, and other regulations have created confusion among fisheries managers and local fishers. These inconsistencies and loopholes render these regulations ambiguous and open to interpretation, making them very difficult to apply on the ground. Immediate sources of confusion and conflict include boundary demarcation specifying the extent of community fisheries, clear definition of permitted fishing gear and regulations on mesh size, and clarification of the roles and responsibilities of implementation and administrative authorities.

A surge in fishing effort, with new risks. The 2012 fisheries reform has broadened access to resources by local fishers. Recalling the fishing boom following the last reform when enforcement was temporarily suspended, many fishers rushed to invest in larger gear – mostly destructive – to take advantage of the confusion immediately after the reform. Many soon saw their gear banned or confiscated by officials.

Although more people now have access to fishing grounds in more areas, many local fishers report that the poor remain relatively disadvantaged in accessing these resources and are unprepared financially to take advantage of the expanded access rights. The reforms have also raised new ecological risks as more people fish, particularly in the seasonally flooded terrestrial environments, increasing pressure on sensitive fishery habitats.

New challenges and new opportunities for community fisheries. Most CFi committees are under-prepared technically and institutionally to take on responsibility for larger areas. While all CFi on the Tonle Sap Lake are now registered, many have little understanding of their legal rights, roles and responsibilities; lack commitment by CFi members; and have weak mechanisms for

advocating their interests and collaborating with different government agencies. In addition, with expanded areas of the Tonle Sap Lake available for small-scale fishers, the incentives to invest in managing and protecting existing CFI areas may have decreased. Some CFI committees are likewise concerned that newly allocated areas are too large for them to manage effectively.

Policy and legal reforms are necessary for addressing the challenges of sustainable resource management and resilient livelihoods on the Tonle Sap Lake, but they are not sufficient. Also essential are actions that build the capacity of actors at all levels, and that strengthen collaboration across sectors (e.g., fishing, farming, and conservation) and across scales (from village to whole lake) to manage competing uses equitably. Key questions that need to be addressed include:

- *Enforcement capacity:* How will monitoring of fishing practices and enforcement of fisheries regulations be strengthened to support implementation of the new policies?
- *Conservation measures:* What changes will be made to fish sanctuaries and protected areas to support ecosystem recovery? How can the efforts of communities and various agencies be better aligned to support conservation?
- *Enhancing community fisheries:* How will the authority and capacity of CFI be strengthened? How should these CFI be reoriented or reshaped to improve the livelihood of community members and at the same time ensure sustainable use of fisheries resources?

Areas for Innovation

Updating and clarifying fishing regulations.

Declaration No. 129 on Family-Scale Fishing Gear Identification was issued quickly in an attempt to implement the new policy reforms. Yet, because it was put in place with little consultation and adopted a standardised approach without room for adapting the rules to different local contexts, the measure has failed to settle disputes over allowable gear or provide a basis for consistent enforcement. Any amendment process would benefit from consulting stakeholders, particularly local fishers and beneficiaries around the Tonle Sap Lake, to get grassroots perspectives and ideas on how to make the contents of fisheries regulations more appropriate to current fishing conditions and resource protection needs.

Indeed, clarifying the limits of allowable family-scale fishing could be considered a precondition to success with other management options because it can help build commitment to enforcement and conservation measures. The main risks are that debates over regulatory changes could provoke new conflicts, and that well-positioned commercial investors could try to curb gains for community resource access.

Strengthening linkages between community fisheries and local government.

Building partnerships between CFI organisations and local authorities could create conditions for local organisations to work together in order to achieve shared goals of conservation, law enforcement and livelihood development more effectively. In particular, integrating CFI and commune council planning could lend financial and administrative support to implementing the CFI management plans, both building CFI management capacity and reinforcing the aims of current decentralisation policy. This also offers an avenue to address resource competition involving fisheries and other sectors, particularly disputes over expansion of dry-season rice farming, dry-season water allocation, and clearance, protection or rehabilitation of flooded forests. Risks include the possibility that CFI committees could lose their independence in the process and that they would lack the evidence to make a compelling case for investment in resource management, as opposed to the more traditional infrastructure projects typically favoured in commune development plans.

Joint patrolling and enforcement. Joint participatory fishery law enforcement in fishing grounds and conservation areas by local communities, local authorities, FiA and other concerned agencies could improve the effectiveness, efficiency, transparency and accountability of enforcement efforts. Since each agency has its own weaknesses and strengths, working together to complement each other could achieve successful outcomes in the attempt to eliminate illegal fishing practices.

In areas that have dry season rice cultivation and/or a Community Protected Area, participatory law enforcement by stakeholders at the local level is especially important. In certain areas of the flooded forest zone, tensions between dry-season rice farmers and community fisheries remain high, focused on water management, land use and protection of

the flooded forest habitat. In such circumstances, the political will of authorities seems to play an important role in supporting collaborative efforts to enforce the rules.

Exploring community-based commercial production. Community-based commercial production has recently emerged as a model that would increase the financial incentives for community-based management. Although the approach is not suitable in all areas, it is worth exploring where the resource base offers potential for sustainable commercial production. In the dialogue held in December 2012, CFi representatives affirmed their interest in this model as a way forward in generating revenues to cover costs of CFi operations, especially in response to increasing effort needed to protect and manage larger fishing grounds. Community revenue generation would provide leverage for members to engage more effectively in co-management schemes while ensuring their own livelihoods are not compromised.

Yet many obstacles to implementation remain. Individual government officials remain skeptical about local innovation on community revenue generation and question to what extent such innovation is allowable under the law and how long it would take to put in place. Other unresolved issues include: (1) what size of area would be appropriate within the management capacity of the CFi committee; (2) authority of the CFi committee, including rights to exclude outside users; (3) how earnings would be managed and benefits distributed; (4) roles and responsibilities of various agencies regarding joint management, monitoring, formulation of rules; and (5) who would provide the necessary capacity-building support.

A Commitment to Experimentation and Learning

Participants in the December 2012 Lake Basin dialogue emphasised the importance of local participation in formulating rules and policies that affect fishing communities. Rules formulated without community consultation have been viewed as unsuitable to local needs, building tension between the communities and enforcement authorities. Yet, long delays in deciding or implementing new rules can be equally problematic. Striking the right balance to achieve both effective participation and timely implementation is difficult.

As the Director General of FiA affirmed at the dialogue, the challenge of implementing the reforms is ongoing, requiring open communication among all players and a willingness to experiment and learn together. A commitment to experimentation and participatory learning implies further innovation in terms of processes to promote local innovation, document lessons, and apply these to future institutional and policy reform efforts. New capacities are required on the part of government agencies and local agents to support this approach.

The Tonle Sap Lake is a vast, complex and fragile ecosystem that supports the livelihoods and food security of millions. Because of its central importance in the rural economy, the Lake's sustainable management is also critical to reducing the vulnerabilities that poor families face, thus contributing to social stability. The reforms open up significant opportunities to enhance these benefits, but require long-term collaboration among multiple stakeholders to innovate new institutional arrangements, evaluate and learn from these experiences, and adapt on the basis of this learning.

Suggested Reading

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