

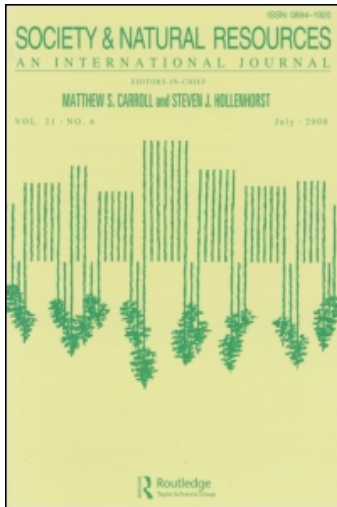
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Policy Review

Community Management by Decree? Lessons From Cambodia's Fisheries Reform

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The Cambodian government introduced a dramatic reform in 2001 that reduced the allocation of commercial fishing lots in favor of local community access. Hailed by community activists, the policy shift nevertheless accelerated a crisis in the sector, with effectively open access and very poor law enforcement leading to intense exploitation and a surge in illegal fishing. This essay reviews the context and the content of the reform initiative, the preliminary outcomes and many challenges faced in its implementation, and the lessons for other developing countries aiming to support community-based management in fisheries or other natural resource sectors. Building the organizational capacity of community institutions, I argue, is inadequate if not complemented by efforts to improve governance by establishing appropriate legal authorities and rights, strengthening the accountability of public officials, and removing barriers to the economic viability of community management.

Keywords Cambodia, common property, community-based natural resources management, enforcement, fisheries, environmental resource conflict, governance, illegal fishing, open access, policy reform

Globally, some 200 million people make their livelihood from fishing or fish processing, and the vast majority of these are small-scale fisherfolk in Asia, Latin America, and Africa. "Despite long-standing policy support for industrialization of fisheries and neglect of the small-scale sector," the number of people engaged in small-scale, or artisanal, fishing, continues to grow (Allison and Ellis 2001, 377). Yet the livelihoods of these people are doubly at risk. Most areas are already fished at or beyond capacity (FAO 2000), and small-scale fishers, already marginalized in economic and political terms, usually lose out in competing for resource access against better financed competitors. With fish production and trade increasingly integrated into

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international markets, globalization “often leads to exclusion rather than new opportunities for fishing communities” (Nielsen et al. 2004).

Against this global trend, the Cambodian government embarked on a remarkable policy experiment that reduced the allocation of commercial fishing lots in favor of local community access. Hailed by community activists, the reforms, introduced in 2001, have nevertheless accelerated a crisis in the sector, with effectively open access and very poor law enforcement leading to intense exploitation and a surge in illegal fishing. As home to the world’s fourth most productive freshwater fishery and a population exceptionally dependent on aquatic resources for food security, Cambodia has a great deal riding on the success or failure of the government’s move to endorse community-based management. This essay reviews the context and the content of the reform initiative, the preliminary outcomes and the many challenges faced in its implementation, and the lessons for other developing countries aiming to support community-based management in fisheries or other natural resource sectors. The analysis synthesizes information from three comparative field studies to monitor and assess the effects of the reforms, along with data from my own interviews during 2002–2004 with local stakeholders in 5 of the 10 provinces affected by the release of fishing lots, as well as nongovernmental organizations (NGOs) and Department of Fisheries officials at the national level. Building the capacity of community institutions, I argue, is inadequate if not complemented by efforts to improve governance by establishing appropriate legal authorities and rights, strengthening the accountability of public officials, and removing barriers to the economic viability of community management.

A Policy Born of Crisis

The underlying condition that built pressure for reform was a tenure system in the fisheries sector aimed at extracting maximum economic rent, which had become untenable in a context of growing local needs. Not only is the country’s population growing rapidly, but many of those displaced by the years of war or more recently made landless have turned to the common-pool resources of fisheries (and forests) as a source of income and subsistence. Moreover, fish products represent an estimated 75% of animal protein intake in the diet of a typical Cambodian, a figure that is globally exceptional (Ahmed et al. 1998, 51; Dey et al. 2003). While today fishers cite declining stocks and increased competition, the fishing lot system that governed Cambodia’s inland fisheries for most of the last century was instituted in a time of relative abundance. Codified in law by the French protectorate in 1908, the system “constituted a formalization of pre-existing exploitation patterns” that had supported royal tutelage (Degen and Nao Thuok 2000, 53). After a hiatus during the Khmer Rouge regime, the system was reintroduced, with lots allocated for 2-year terms by auction. The commercial lots were supplemented in the late 1990s by government-run “research lots,” which one insider termed “an excuse for taking a commission” (Thay Somony 2002, 4).

The announcement that marked the beginning of the fisheries sector reforms in Cambodia caught most observers by surprise. Popular protests had reached a crescendo in 2000, with fishing communities around the Tonle Sap Lake and along the Mekong River organizing to present their grievances to local officials and, in some cases, protesting in front of the National Assembly. They directed their accusations against the owners of commercial fishing lot concessions, whose hired guards were

known for shooting at locals who crossed the lot boundaries, and at authorities who, they claimed, were complicit in selling off access to nominally public waters. They also demanded revisions to the system by which most of the best fishing areas were allocated for commercial concessions. Prime Minister Hun Sen, on a visit to Siem Reap Province in late 2000 to distribute rice to farmers affected by extreme flooding, met with provincial officials to discuss local problems in the fisheries sector, and was apparently impressed by the obstacles small-scale fishers faced in accessing suitable fishing grounds. The next morning he announced before the media that 8000 hectares of fishing lot area would be “released” to communities in Siem Reap.

Ultimately, 540,000 hectares, representing 56% of the former total area of freshwater fishing lots nationwide, were released for public access in a series of decrees that took force in 2001. This was the most important element of the reform initiative, which also included replacing leadership at the Department of Fisheries, temporarily recalling most fisheries officers from the field for retraining, and establishing a Community Fisheries Development Office. Acknowledging that the existing codes were outdated, a decree was issued that removed fees for the use of gear classified as “medium-scale,” as fishers argued they could no longer make a living using only hand-held baskets and other “small-scale” gear. The prime minister also issued stern warnings to address what he termed “anarchy” in the fisheries sector, interpreted by many as an effort to rein in corruption.

Struggling With Reform

While the perceived injustices of the lot system crystallized so many people's discontent, and provided a focus for what the reforms could dismantle (at least partially), it was much less clear what kind of new system of tenure and management would be built in its place. The most visible example of an alternative for freshwater fisheries was being piloted at the time in Siem Reap Province under a project supported by the Food and Agriculture Organization of the United Nations (FAO), which began pilot field activities in 1997 and had since developed several community fishery organizations operating in the interstices of the commercial lots (Evans and Vann Sophana 2004). The initial experience was promising in showing that community organizations could be created, could negotiate their own set of local rules, and could enforce them with some limited success. But access to productive fishing grounds remained a serious constraint, and the livelihood gains for the communities involved had still not been convincingly demonstrated. Nevertheless, “community fisheries” became the catchword of reform. Encouraged by the new policy space, over 260 community fishery projects were established in 20 provinces over the next 3 years, with a mix of government, nongovernmental organization (NGO), and donor support (Oxfam 2003).

During the initial months of implementing the reform agenda, however, the release of fishing lots, combined with the recall of fisheries officers from the field, created a management vacuum and effectively opened access to all. The commercial lot system, while inequitable, had strictly regulated access to the fishing areas through the use of private patrols. The lot owners had in practice been empowered to manage complex, local systems of social organization complete with subleasing, application of user fees, and enforcement with the threat and use of violence. Neither the state nor communities were prepared to fill the gap. Essentially, release of lots opened access to a previously regulated resource, with a declared intent to benefit small-scale fishers and the poor, but the legal framework to support authentic

community-based fisheries management is still largely absent and the necessary institutional transformation has just begun.

Nevertheless, the effects of the policy shift are marked. Three separate assessments of the early outcomes of the reforms based on community consultations that together covered 8 of the 10 provinces affected by the release of fishing lots provide evidence to confirm several trends: The release of lots means that a broader range of users is accessing the fisheries in most areas, there has been a sharp rise in the use of illegal gear, and most users perceive that fishery resources have declined along with an increase in fishing effort (DoF and MRC 2001; Oxfam 2003; CFDO 2004b). The poverty and equity impacts are more subtle and vary more by locale. Some reports point to an increase in inequality within fishing villages that accompanies the increase in access to fishing areas, as fishers who benefited most were those with the assets to invest in larger gear, travel to more distant fishing areas, and increase their effort (Thay Somony 2002, 9). The earliest assessment, conducted in 2001, reported wealthier people capturing most of the benefits from illegal fishing (DoF and MRC 2001), while the most recent, with field work concluded in early 2004, cites an expansion of illegal fishing practices, including the use of fine-mesh nets and electric fishing gear, among small-scale users as well (CFDO 2004b, 52).

An Oxfam team that conducted interviews and group discussions in mid 2003 focused on the effects of the reforms specifically on poor resource users in five provinces, comparing fishing livelihoods to the pre reform 2000 season (Oxfam 2003). Roughly half of the interviewees said their livelihood from fisheries had deteriorated, while the one-quarter who said their livelihood improved attributed the change to reduced fees, an increase in the accessible area, the ability to use larger gear, and an increase in the local market price for fish. Of those who had paid fees to fish before the reforms, most said they paid less afterward, citing in particular the absence of fees previously paid to lot owners. The poorest fishers, many of them women, who never paid fees to begin with and rely more on nonfish fishery products (aquatic plants, crabs, etc.), have reported fewer benefits (Oxfam 2003).

Perceptions about the causes of illegal fishing and the reasons for poor enforcement differ greatly. "People don't respect the law because they are poor," said the head of the agriculture office in Siem Reap Province (field interview, June 2003). In a similar vein, local fisheries officers often explain that it would be cruel to enforce the regulations on someone who is only trying to feed his family. Nevertheless, complaints remain widespread that some fisheries officers, police, and other officials are complicit in allowing illegal fishing while extracting an informal "fee" for the practice.

"If we report people doing electric shock fishing to the authorities, those people just put some money in the officials' pockets. They still have their gear, and they keep on doing it," said a fisherman in Takeo Province, explaining that when people from other villages come to do electric fishing, they carry the threat of attacking any who report them. "Our village leader is also poor—why would he dare?" (field interview, October 2003).

Where community fishery organizations have been established, they so far have no clear legal basis to enforce either their own local regulations or the official fisheries laws. Indeed, their legal status as organizations is tenuous. More than 3 years since the first announcements of the fisheries reforms, the implementing regulations to define the status, rights, and responsibilities of community fisheries organizations had still not been agreed on. If the legal basis for community management had been established before the release of fishing lots, at least in interim regulations subject to

modification through experience, community fishery organizations probably would have been better positioned to assume their new responsibilities.

"The fish have become poor, catching them is easier, so life is the same" is the way one fisher in a floating village in northern Siem Reap near the border of Battambang Province summed up the effects of the reforms (field interview, June 2003). What many fear, however, is that the benefits that some fishers are able to derive from increasing fishing effort or curtailing the ban on illegal fishing methods are only temporary, as the resource use patterns are unsustainable. Electric fishing, the use of very-fine-mesh nets, and draining sections of flooded forest are all particularly damaging because they kill the brood stock needed to replenish the fishery in future years.

Such trends pose daunting challenges for the future of fisheries management in Cambodia. They could be interpreted as confirmation of the oft-cited low level of social capital in Cambodian villages that makes collective action through non-kin networks exceptionally difficult (Degen and Nao Thuok 2000; Ebihara 1968; Ovesen et al. 1996). Without a doubt, the issue of organizational capacity within and among villages is essential, and this is where local projects to assist community-based fisheries management are investing most.

Yet, along with this, we must ask whether the governance context has been realigned to match the stated policy goals. Does a highly organized community association even have a chance of exercising authority over the local fishing domain, particularly where the resource is highly productive? Are tenure rights clear, equitable, and secure? To whom are local officials accountable? Is there functioning recourse against the public abuse of power?

To be successful, a policy shift toward community-based fisheries management requires breaking with a long tradition of government agencies and their staff relying on informal taxation of the fisheries sector. In many areas, rent-seeking that was previously consolidated through the lot system has now been dispersed, but it has not been eliminated.

"Before, when they still had the lots, we knew how it worked. We paid the lot owner and we could fish. Now, there are the police, the military police, the fisheries officers," said a village leader in Takeo Province (field interview, October 2003). Despite the creation of a community fisheries organization, he explained, accessing the common waters requires individual fishers to pay a host of local officials, and he doesn't know for sure which of these payments are legitimate fees and which are not. He is not alone in his frustration. The most common request put forward by groups of fishers interviewed by the Oxfam assessment team was that "Government... stop authorities from taking money from the poor or allowing illegal fishing" (Oxfam 2003). Even the Department of Fisheries assessment notes the "widespread perception that corruption is leading to the protection of many of those involved in illegal and destructive fishing that is threatening the sustainability of fisheries" (CFDO 2004b, 60).

Trade in fish is, moreover, heavily encumbered by fees, transport permits, and tariffs that divert profit from the sector to agencies and individuals who play no role in protecting or managing the resource. One independent assessment that tracked fish traders transporting their products from the Tonle Sap Lake to the Thai border by pickup truck found that on a typical shipment traders made "27 different fee payments to 15 institutions in 16 different places," with the sum of fees plus costs associated with weight loss and spoilage exceeding the profit margin on the shipment by more than three times (Yim Chea and McKenney 2003, 4). This lowers the prices

that traders can afford to pay for the catch, making it all the more difficult for members of community fishery organizations to make a reasonable profit in the marketplace and rely on fishing as a path out of poverty. It also calls into question the economic viability of community fishery organizations, whose management activities ultimately must rely on income generated by their members rather than subsidies from development agencies.

When fisheries officers, police, and other authorities are mistrusted by communities, it prevents them from being accepted in the new roles of facilitating and helping enforce community-led management plans, which the Director General of the Department of Fisheries insists is the intention of the new policy (Nao Thuok, interview, December 2003). With “limited access to mechanisms of legal redress and support for their rights” (CFDO 2004b, 60), individuals and communities have few means to resolve conflicts through official channels. In effect, even community fisheries organizations that function well internally face severe challenges in exercising their authority for the benefit of their members.

Advocates of community fisheries within the government have come to understand that policy reforms must be complemented by institutional reforms, which are proving the more difficult to achieve. Despite the absence of authorizing legislation at the national level, officials in some provinces such as Pursat have formally recognized community fishery organizations and endorsed their management plans, and are building ad hoc committees to deal with fisheries-related conflicts outside the court system (field interviews, June 2004). The Community Fisheries Development Office, the body within the Department of Fisheries charged with coordinating the development of regulations as well as building local management capacity, has adopted an explicit strategy of partnership with civil society groups—even those, like the Fisheries Action Coalition Team, that have vocally supported community grievances against local officials. It also provides a channel to receive reports directly from community fishery organizations that encounter conflicts or problems with the provincial fishery authorities (CFDO 2004a). The Department of Fisheries, says its Director General, is “committed to [the success of community fisheries] whether it be difficult or complicated” (Nao Thuok, personal communication, February 2004).

Harvesting Lessons From Cambodia’s Reform Experience

The Cambodian fisheries reform experience clearly shows that the withdrawal of systems of state or private management is alone insufficient to create a functioning community tenure regime. It may have been possible to open fisheries to community access by decree alone, but the work of building community-based *management* is a much larger challenge. In his review of the empirical common property literature, Agrawal (2001) identified a host of variables that appear to influence the success of common property management efforts, which he grouped under characteristics of the community, characteristics of the resource, and—the least well studied aspect—the political and governance context. The Cambodian case points to three aspects of the governance context that should be considered fundamental.

First, appropriate legal authority needs to be established in practice, so that local people assigned responsibilities for resource management also have powers to negotiate and protect their collective rights. In Cambodia, many of the points of dispute in the draft fisheries legislation concern precisely the nature and extent of authority that is granted to community fishery organizations in such domains

as rule setting, fee collection, subleasing, and enforcement (Oxfam 2002). Some would like to see state agencies retain an effective monopoly on such powers, and the rent-extracting relationships they enable, while still promoting the notion that the poor will benefit from community-based management. But without adequate powers devolved, this is a hollow promise.

Second, mechanisms of accountability need to be in place so that public officials—and community leaders as well—are made to answer for the ways in which they exercise their power. Part of this depends on the general functioning of the legal–judicial framework, such as the availability of legal recourse and due process in addressing grievances; part depends on the vitality of informal mechanisms for conflict resolution or community mobilization. When communities and government are expected to uphold complementary responsibilities, as the fisheries “comanagement” concept requires, mutual respect for the authority and rights of each party is necessary. In Cambodia, fisherfolk’s complaints about the systematic abuses of public authority have influenced a substantial shift in policy, but the work to build responsive and accountable government at the local level has only begun.

Third, community organizations need access to reasonably productive resources and a reasonably efficient market to have a chance at advancing economically. In Cambodia, the reduction and removal of fishing lots resulted in significant areas released from the control of concessionaires. Where community fishery organizations are responsible for less productive fishing grounds, including seasonally flooded forests that are dry during the peak fishing months, many question whether enough benefits can be captured locally to make compliance worthwhile. The underlying issue is equity in resource allocation. In making such allocations, the productive potential of the resource vested in community hands needs to be prioritized so that the responsibility for conservation yields its own direct benefits. Fees and taxes on the trade of fishery products also need to be at levels that do not threaten the economic viability of community management.

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