

Fishing in a Fuzzy Era

The past 75 years in Sri Lanka have seen a shift in tenure rights in small-scale fisheries, heralding a new era

Tenure rights have a strong influence on access, use, management and conservation of aquatic resources. The Food and Agriculture Organization of the United Nations (FAO) defines tenure rights in fishing as “how marine and inland capture fisheries are accessed, used, and managed using various types of rights-based approaches.” Under the Village Communities Ordinance, passed in 1889 by the colonial government, management decisions were made at the local level, respecting the traditional norm of equal access to resources and equal income earning opportunities to all. Artisanal and small-scale fishers, both marine and inland, continued to enjoy their customary rights to fish resources and the beach; the violation of such rights were rare. In a context of low population pressure and relatively ‘abundant’ resources, there was no need either for access rules or conservation rules.

The most popular fishing technique in the period before and after the world wars was beach-seining; it contributed 90 per cent to the total production of 25,000 tonnes in 1950. Nets were laid in smooth-bottomed near-shore waters called *padu*. Fisheries were managed by the involvement of *Patabandiarachchi*, which was usually a person from a respectable family in the village with a knowledge of fisheries. People also had free access to inland fisheries resources, such as perennial and seasonal tanks, reservoirs, lakes and rivers. However, inland fishers did not clearly enjoy any right of access to land adjoining the shoreline, such as *waw-thavalla* and *gasgommana* or *ihaththawa* (area beyond the tank bund and tree girdles around a tank), but they have been using these lands quite freely.

After the country’s independence in 1948, and especially from the 1950s to the 1970s, emerged a new era in fisheries. It began with the expansion and development of fish marketing, first by the Fish Sales Unions and then by the establishment of the Department of Fisheries in 1948. Since then a number of changes have taken place in fishers’ right of access to coastal and inland waters and to the beach and adjoining land.

New economic opportunities emerged outside the sphere of fisheries in the country, along with population growth, market expansion, national

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integration, technological change and government intervention. People no longer believed that their futures were tied to the natural resources around their villages. As customary rights and obligations were not fungible in a perfect market, people were compelled to neglect or overexploit the resources. Traditional community norms and laws could no longer successfully address the newly emerging fishing problems. The government had to intervene to protect the common property fisheries from further degradation. Fisheries inspectors (FIs) were stationed at marine landing centres. Although tenure rights are not specifically tackled in the law called the Fisheries and Aquatic Resources Act (FARA) No. 2 of 1996 and its subsequent amendments, the rights of access to fish resources and the beach are implicit in certain provisions of the

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1996 law. With the establishment of the National Aquaculture Development Authority (NAQDA) in 1997, all inland fisheries and aquaculture came under its purview.

Technological developments during the early 1960s were characterized by the introduction of nylon nets, outboard motors (OBMs), offshore craft with inboard engine, and new fishing techniques such as nylon gill-netting. This was the onset of Sri Lanka's 'Blue Revolution'. The new technology did not have serious impacts on the customary rights of small-scale fishers. There was a clear spatial separation of fishing technology: artisanal craft operated up to about five km from the coast; small mechanized craft plied up to the edge of the contiguous zone of 24 nautical miles; and the offshore craft with inboard engine (and, after 1990, the multi-day boats) fished beyond the continental shelf (away from the contiguous zone) up to the exclusive economic zone (EEZ) and further away in international waters. No conflicts among different technological categories emerged and fishers continued to enjoy their customary rights to the sea and fish resources.

The need to regulate

A new regulation, prohibiting the operation of purse-seines within seven km from the shoreline, was brought in, leading finally to the demarcation of an arbitrary 'artisanal fishing zone'. Small-scale fishers on motorized boats with OBMs operated beyond this point, up to the edge of the contiguous zone. Licences for fishing operations were issued by the Department of Fisheries, which curbed unwarranted expansion of fishing effort, while contributing significantly towards sustainable management of fisheries resources.

A recent development in respect of lagoon fisheries is the establishment of Fisheries Management Areas (FMAs), 18 in number, and Fisheries Committees (FCs, one or more per FMA), under FARA's provisions in sections 31 and 32. This has provided the FCs with power to control access and to adopt measures to sustainably manage lagoon resources, undertaking even resource stewardship responsibilities.

Generally, the coast comes under the Department of Coast Conservation and Coastal Resources Management (DCCCRM). While the coastal zone was defined during the pre-tsunami era as a distance of two km to the sea and 300 metres landward (except in the case of water courses, where it extends to two km), the landward limit was extended to two km after the tsunami of December 2004. No construction within this zone was allowed without permission from the DCCCRM, which prevented tourism stakeholders from building structures illegally along the coast, thereby protecting, to a fair extent, fishers' right to the beach. Another development was the enforcement of Madel Fishing (Beach-Seine) Regulations, No. 6 of 1984. This led to the demarcation of beach-seine *padu*, giving the seine fishers the legal rights to use *padu* for seine fishing.

A major change in inland fisheries was the enactment of the Agrarian Services Act No. 46 of 2000. Section 81 (1) of this Act stated that "every tank, dam, canal, water course, embankment reservation or other irrigation work, within the area of authority of any Farmers' Organization, shall be subject to the supervision of that Farmers' Organization." The fisher organizations are required to obtain permission from the relevant farmer organization to engage in any activity related to fishing. While this was the case for minor irrigation systems, fishers were invited to irrigation committee meetings by the Department of Irrigation in respect of major irrigation systems with an extent exceeding 800 hectares). This facilitated joint decision-making concerning water management. Recent amendments in the Agrarian Services Act introduced provisions to consider fisheries organizations as sub-committees of farm organizations, and required that membership in such organizations remain constant, preventing further entry.

Increasing coastal pollution meant that access to coastal waters did not guarantee the small-scale fishers access to good fishing incomes. Many emerging industries were located close to the coast for ease of releasing effluent into the sea, which has led to



Figure 1. Spatial Separation of Technological Categories (under Blue Revolution). No conflicts among different technological categories emerged and fishers continued to enjoy their customary rights to the sea and fish resources

depletion of fish resources due to water pollution. Some fishers must have left the fisheries because their access rights to murky waters did not guarantee them even their subsistence.

Competing interests with power

Of immense significance is the adverse impacts on fishers from the expanding tourism sector, which accounts for 12 per cent of the country's gross domestic product (GDP). In recent years, the Blue Economy has received top priority; coastal tourism is one sub-sector that is rapidly growing now. Due to this dominance and the power wielded by hoteliers and other service providers near the coast, some small-scale fishers have been displaced, dispossessed and marginalized due to land grab. Although this 'grievance' argument is

being strongly voiced today, the other side of the coin is that children of those aggrieved fishers have now joined hands with the new coastal stakeholders like hoteliers to chase away their 'own' ilk, in search of a better life. The small-scale fishing communities complain that their customary rights to the beach have been violated, when those from the same communities are involved in chasing them out. In effect, they "run with the hare, and hunt with the hounds."

The customary practice of fish processing by women has been gradually taken over by small business ventures. Women fish processors have thus been pushed to the margins, and they now work as labourers in dry-fish enterprises. Women also complain that they are paid less than men for the

same tasks. There are no significant changes in fish marketing, where men and women continue to sell their fish through traditional channels, which are in the hands of middlemen.

Due to low fishing incomes and poverty, there is a tendency for fishers to rent out their access rights to tourism stakeholders or other actors so as to generate higher income. Stilt fishers along the southern coast hire out their stilts to tourists while fishers in Negombo hire their sail boats to tourists rather than engage in shrimp trawling themselves. These examples show that rights of access should go hand-in-hand with sustainable resource management. When income is not sufficient to meet family subsistence needs, people sell or lease their rights to enjoy a decent living elsewhere, which fishing cannot guarantee.


Generally, climate change impacts are strongly felt in coastal areas. The major threats to tenure rights and, subsequently, on the livelihoods of fishers, has been the large-scale erosion of the coastal areas, many of which have been narrowed down to thin strips of beaches. Fishers complain that they have lost their craft landing sites, beach-seine *padu*, and fish drying sites, among other losses.

To cope with heavy coastal erosion, the DCCCRM had erected stone barriers to protect coastal structures, roads, houses and schools. These barriers are commonly found in the southern, western and northwestern coastal belt. Such protective structures have adverse consequences on beach-craft and seine operations, and many *padu* have disappeared. For example, beach erosion in Mannar in the Northwestern Province has caused a drastic reduction in beach-seines—from about 100 seines operating a few decades ago to a mere 20 today.

Both marine and inland fishers in Sri Lanka still enjoy customary rights to access coastal and inland waters. However, Malthusian pressures, market expansion, tourism development and climate change have strongly affected fishers' rights to the beach and adjoining land. State law has protected fishers' access rights to the resources, which is especially true with artisanal

and small-scale fishers. Even in inland fisheries, regulations permitting fisher organizations to be part of a sub-committee of farm organizations also provide for more effective participation of fishers in water management.

Since access rights to fish resources does not yield benefits if there are no fish to catch, it is evident that access rights need to go hand-in-hand with human rights, such as Article 25 of the Universal Declaration of Human Rights, which states that everyone has the right to an adequate standard of living. It is also necessary to estimate the total allowable catch (TAC) in coastal fisheries, based on which the number of coastal fishing vessels to be permitted and the number of operating licences to be issued can be determined, protecting the resources from further degradation.

To bring open-access fisheries under some form of management, sections 31 and 32 of FARA could be utilized to declare coastal fisheries as FMAs by extending coastal boundaries to the edge of the contiguous zone. Fisheries Committees established in FMAs will need to ensure the fishers' right of access to coastal fish resources, while taking up management responsibilities. The DCCCRM also needs to consider establishing co-management platforms in the coastal zone, which need to be well-integrated, inclusive, participatory and holistic, ensuring economically, ecologically and socially sound resource use, while promoting marine and coastal spatial planning and the demarcation of coastal areas for different users. 

For more

Fisheries Tenure

<https://www.fao.org/tenure/resources/collections/fisheriestenure/en/>

Path to a Policy Upgrade

https://www.icsf.net/wp-content/uploads/2022/03/Sam_84_art16_Sri-Lanka_Oscar-Amarasinghe.pdf

Report on Asia Workshop – IYafa 2022: Celebrating Sustainable and Equitable Small-scale Fisheries, 4 – 8 May, 2022, The Berkeley Hotel, Bangkok, Thailand

https://www.icsf.net/wp-content/uploads/2022/08/930.ICSF222_IYafa_Asia_2022.pdf

SSF Guidelines: Governance of tenure and resource management

<https://www.youtube.com/watch?v=uOQ8F4LVyh0>

Social Welfare and Social Security in Sri Lankan Fisheries

<https://www.icsf.net/wp-content/uploads/2005/09/930.ICSF106.pdf>