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WORKING WITH INCENTIVES AND IDENTIFYING COMMON GROUND TO PRODUCE A COLLABORATIVE, INCLUSIVE FISHERIES LAW

HIGHLIGHTS:

- Rakhine fisheries law is a new benchmark for the country both in terms of delivering equitable resource sharing and, crucially, as a replicable model for consultation and public participation in policy-making.
- The case demonstrates that despite decades of repressive state machinery, with the right process, government departments can embrace new ways of working and thinking.
- Success at the state level provides both the impetus to replicate across other states and regions and to form a broad based inclusive national level mechanism to implement community fisheries across the Nation.

RESOURCE DEGRADATION, REGIME CONTROL AND COMMUNAL VIOLENCE – IDENTIFYING OPPORTUNITIES

Rakhine is the second poorest state in Myanmar. The fisheries sector is estimated to represent a third of the Rakhine state's economy. Nearly half of the population relies on fish-related employment. However, due to over-fishing and environmental destruction, fish stocks have severely declined over the past decade (estimates are up to 90%). There are various reasons for this, but it is largely because regulations have been used predominantly by government and private sector operators to extract "rents" via the licensing and taxation system, and fishers have responded by using aggressive fishing techniques that have driven down the resource base and degraded aquatic environments.

Until early 2011, Rakhine State was under the political control of the military regime, headed by the Regional Military Commander. This structure permeated down to District, Township and Village level. Underpinning this "political" structure is the government administration, run by administrative officers, and line departments (including agriculture and fisheries). To this day, much of this structure remains in place. The administrative structure continues to be under control of the military and administrative officers remain answerable to their parent ministries in the capital, NayPyiTaw. The government departments including the Department of Fisheries, have historically seen themselves, and are seen by citizens, as mechanisms of control by the military regime – and have been largely distrusted.

In 2011, Myanmar held its first election in 20 years, resulting in the first election of sub-national parliaments. In 2012, the new Rakhine parliament tried to reduce the extraction of rents in the fishing licensing system by scrapping tenders and promoting open fishing areas. Under the 2008 Constitution, States and Regions were given the powers to draft some sectoral laws, including freshwater fisheries. The Department of Fisheries reacted by starting to draft a new fisheries law behind closed doors to legitimize revenue collection by the State and to reassert control.

Also in 2012, communal violence broke out in Rakhine resulting in many deaths and mass displacement (primarily of Muslims) to IDP camps, further exacerbating competition over resources. A state of emergency was declared providing sweeping powers to the military.

USING INCLUSIVE PARTICIPATORY PROCESSES TO CHANGE THE PARADIGM

In October 2014, the Rakhine State Parliament passed a new Freshwater Fisheries Law – the culmination of a two-year collaborative process. The law draws on best practice from the region, alongside an intensively consultative and locally owned process within Rakhine state. This has resulted in one of the best state natural resources laws in South East Asia, and one of the first ever to include a provision for community fisheries. It is also a new benchmark for the country – in terms of delivering equitable resource sharing, the law demonstrates that it is not just a simple equation of raising revenues from resources – that many other economic, social and environmental issues matter. The law is also a model for public participation in state-level policy making in Myanmar; and has provided a neutral space to promote peace.



HOW WAS IT DONE?

USING POLITICAL ECONOMY

At the outset, Pyoe Pin, a programme managed by the British Council, conducted participatory political economy analyses and technical research to explore the scope for building a coalition of interests around the recovery of the local fisheries and related issues of land use. The research indicated that new regulation could be developed that would both help protect depleted fish stocks and ultimately improve livelihoods. The PE analysis also recognized the potential for strengthening state-citizen relations; recently elected MPs could gain credibility with constituents through improved service delivery and advocacy for fairer governance. Pyoe Pin also conducted a series of conflict studies to understand divisions. In response to the risks identified, the programme cultivated trust between various stakeholders, including engagement and consultation with communities of different faiths.

A COLLECTIVE EFFORT

Following the PE analysis, Pyoe Pin facilitated bringing together actors to form the Rakhine Fisheries Partnership (RFP). This process required a politically savvy team that could work with incentives and constraints and broker relationships. The multi-stakeholder RFP coalition comprises parliamentarians, civil society, lawyers, private sector and fisher communities of different ethnicities – working together for the first time. Over a two-year period, a series of workshops, research studies, conflict analyses and exposure visits were facilitated. This included an exposure visit by 15 partner representatives to Cambodia and Thailand, and the commissioning of a comparative study of fisheries laws across SE Asia. This process helped RFP members understand the interests, incentives and constraints of other RFP actors; provided a forum to thrash out ideas and ways forward; enhanced RFP members' technical knowledge of key fisheries sector issues of revenue collection, land use and licensing; and built local ownership.

Through these processes, trust was built and the Department of Fisheries and parliament realised that a better freshwater fisheries law could be drafted by working together. The building of strong, transparent, relationships with bureaucrats and MPs also mitigated the risk that the Fisheries Department might refuse, either formally or informally, to support change. Furthermore, the two main political parties were motivated to put aside differences and co-operate. Links were also forged with Tat Lan, (a coalition of NGOs delivering a large technical agricultural programme) to integrate technical and physical development with new approaches to regulation.

The Rakhine Fisheries Partnership (RFP) guided the law drafting process. For example, analysis of successful small-scale fisheries governance in the SE Asia region resulted in broad-based support for a dedicated community fisheries section in the law. The new law also provided for improved resource conservation, mechanisms for conflict mitigation, and alternative livelihood options, during closed fishing season.

Central to the approach was a local leadership that understood the cultural context of implementing new fisheries regulations in different parts of the state. Based on their skills, experience and local intelligence they were able to navigate complex political environments and use established networks to influence key stakeholders.

The result is a law that is owned by Parliament, Department of Fisheries and local fishers alike. It has empowered the Department of Fisheries to shift from a mind-set of control to partnership with villagers. Fishing communities see the law as protecting their interests – as they were part of the process. This has led to piloting of 'co-management' strategies – including in Muslim areas which had been a focus of communal violence – that will improve sustainability, increase revenues and support improvements to livelihoods. Conflict has significantly reduced.

The success of the process has also led to replication of the approach in other states and regions such as Mon State and Ayeyawaddy Region. At the national level, the Deputy Minister for Fisheries has endorsed a coordinating mechanism that has broad inclusive membership of government, academics, civil society and private sector, to roll-out community fisheries across the country. ASEAN has also taken up the mantle – through relationships built in the exposure visits, Myanmar, Cambodia and Thailand co-hosted the first ASEAN community fisheries forum.

For more information about the Rakhine Fisheries Partnership see <https://www.youtube.com/watch?v=XiWNBSqBLWQ> or contact Communications Specialist Alex Finlayson (alex.finlayson@pyoepin.org)

