

Marine Fishing Communities

Establishing Rights on Sea & Land

V.Vivekanandan

ICSF Marine TOT Workshop

Outline

- Why are fishermen seeking rights? What sort of rights?
- The two spheres of rights: the sea and the coast
- Importance of conceptualising and formulating the rights that are being sought
- Discussion on the actual marine fishing tenure system in place
- What are the rights we seek at sea? What issues need to be resolved to formulate a set of rights?
- Understanding the coastal tenure system and issues prevailing at the moment
- What are the rights we seek on the coast? What issues we need to resolve to formulate the rights?

What is context of the rights discussion?

- Historical community undertaking marine fishing as a hereditary occupation
- Over the centuries, different groups settled down in different parts of the coast to undertake fishing activities as specialised full timers
- They managed their livelihood at sea and life on shore with very little external control
- By and large, who ruled and to which kingdom they belonged, did not matter. There was a broad social consensus on the roles of different communities and nobody questioned the arrangements in fisheries
- This situation continued even during the colonial era and the early decades after independence
- The last 50-60 years has seen major changes as independent India intervened in fisheries with an aim to increase production and often ignored the long history of a self governed sector
- The fishing communities are finding that their rights at sea that they took for granted are eroded as many new activities are invading the sea—mariculture, energy production, oil drilling, undersea mining, etc.
- On the coast, a large number of infrastructure projects are taking over large stretches of the coast and encroaching upon the fisher settlements

Sea and Land: Two different spheres

- For the fisherfolk, their rights on sea and land are interconnected
- However, for practical purpose, the two terrains need to be treated as two different spheres from the view of formulation of rights as property regimes are different and need separate analysis

Conceptualizing and formulation of rights

- To establish the rights through a set of laws from the Parliament and State Assemblies
- We need to build a consensus at two levels
 - Within the fishing community, which is itself a diverse group across the 9 coastal states and 4 UTs
 - Get the acceptance of the society at large for our demands

Marine fisheries--Who actually governs?

- On paper the Dept of Fisheries has the overall responsibility for governance of fisheries in India
- However, the fishing and the fisherfolk are mostly governed by the many kinds of self governing organisations on the coast
- Some examples of self governance
- Actual role of Dept of Fisheries in governance
- Limitations of both systems
- Better governance requires the coming together of the two systems to collaborate and the state to recognize/respect the self governing institutions

Issues to be resolved on sea rights

- Defining ourselves—who are “we” and who are all part of us?
- Community rights vs. Individual rights
- How do we define the community? Heredity? All who work on boats?
- Active fishermen vs those who only own/manage
- Given resource limitations, can all of “us” be given fishing rights?
- What is the way to share the limited marine resources at sea between the different fishermen groups/fleets?
- Who will be responsible for the management of the resources, both in terms of allocation and control?

Issues contd...

- What is our position on mariculture, which will require separate space allocation at sea and spatial restrictions on capture fisheries?
- What is our demand on various non-fishing uses of marine space that may interfere with fishing operations?
- Property rights do not guarantee that the property cannot be taken away for public interest. It only guarantees that a proper compensation will be paid

Fishing communities and the coast

- Private property normally ends where agriculture ends
- Land between the agri lands and the sea—often unsuitable for agriculture—is recorded as public or common lands in land records
- So, lands used by fishing communities on the coast remain undocumented and properly codified in revenue/land records
- While the coast was not fully occupied at time of independence, the competition for coastal lands and resources were low; now the coast has become an attractive destination for investors
- Lack of documentation and the increased demand for non fishing activities has resulted in the fishing community rights to the coast being ignored

Issues to be resolved on coastal land rights

- Fishing villages are listed by the DoF, but do not exist as a land revenue category or census category
- Community vs. individual: ownership and control;
- Can land be sold to non community persons? Can individuals or community sell or lease out land for other purposes like tourism or other activities?
- Non fishing communities which share the coastline and live in composite coastal villages in some parts of the coast—what about them?
- How are the village boundaries to be established?
- Current and future space requirements?
- Families not in fishing anymore: should they also have same rights?
- Violation of existing building rules in fishing villages

Market related rights of fisherwomen

- It is interesting to note that in coastal towns and villages, fisherwomen who sell fish claim rights over the spots they sell from
- This seems to be a reality as these spots are also passed on from mother to daughter
- In the case of markets belonging to the Brihanmumbai Municipal Corporation (BMC), the rules actually provide for the vendor having the right to pass it on to her heir
- However, in general, the right to such spots seem to have general acceptance among the vendors themselves as well as the immediate society
- However, when the State enters the equation with its development programmes—say road development—this right is not easy to uphold and no compensation is due when the woman is displaced from her spot

Conclusion

- The fishing community and organisations working for them need to do a lot of home work to formulate the demand for rights taking into account the plurality of situations across the coast and the internal divisions that exist
- A broad consensus needs to be build internally before we can face external society and the state