

Learning from the Japanese Rights-based Fisheries System: Managing our Small-scale Fisheries

by Yasuhisa Kato



Introduction

Following several enquiries from policy makers in the ASEAN Member Countries, interested in the fishery management system developed in Japan which is often reported as successful, a simplified Japanese rights-based fisheries system was discussed at the Regional Technical Consultation (RTC), “Toward Right-Based Management for Small Coastal Fisheries”, Bangkok 23rd-26th Nov. 2004. The presented system had been slightly modified as to be easily understood and only present features relevant to the Southeast Asian region, considering the distinctiveness of the region and the coastal small scale fisheries in comparison with Japan. The purpose of such a discussion was not to introduce the Japanese system in Southeast Asia, but to use it as a basis to facilitate further reflection in seeking possible future regional directions on the subject.

It is obvious that the direct introduction to the region of a system developed in Japan that has evolved

through a long time process, and based upon the specific culture, politics and history of Japan, is not possible. Putting all small-scale fisheries under a management system is still a relatively new concept in the region and, when existing, it is not likely to be applied. Such a system must be developed based upon diverse national policies, politics, culture and other specificities of the different ASEAN-SEAFDEC Member Countries. Considering that the introduction of fisheries management systems will imply some serious redistribution of wealth along the coast, the required process will need a careful consideration and a cautious approach is very necessary to avoid pitfalls.

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Meanwhile, the policy makers of the respective ASEAN countries are struggling to find a way to proceed toward sustainable fisheries development and management for the small-scale sector that dominates regional fisheries. So far, there is little success in finding a working system that can be used as a basis for policy consideration and action, although many countries in the region have experience with their own approaches, and are learning from them. It is under these circumstances that there was a widespread request for learning from the Japanese system, which is regularly reported as successful, at least in comparison to others.

Why develop an appropriate national management system for coastal small-scale fisheries?

One may ask that fundamental question and deem that the issue of small-scale fisheries management can be treated in a more relaxed manner with no immediate agenda, since the sub-sector is characterized with pervasive poverty and having its own distinctive socio-economic values. Fisheries management through government involvement is mostly, if not always, considered with strong negative connotations, most stakeholders generally having a short-term perspective on fishing. If such interventions are so harsh, it is often accepted that they should not be applied to the people having such a small-sized livelihood, livelihoods that barely ensure the simplest subsistence level.

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It indeed looks like generosity toward an impoverished part of the society, but in the long term, such public attitudes and the accompanying government neglect of the sub-sector will result in the collapse of most coastal fisheries. Considering the declining trends of fisheries resources in coastal waters throughout the region, a lack of an appropriate management system and support will actually drive the small scale fishers into an even more miserable situation. Inaction in managing small-scale coastal fisheries now is at the

antipode of generosity as it will result in the destruction of livelihoods of the very people we are willing and trying to support.

It should be noted and more often recognized that systematic and properly provided management interventions would actually have many positive effects on small-scale fishermen’s livelihoods, and not only on a long-term basis.

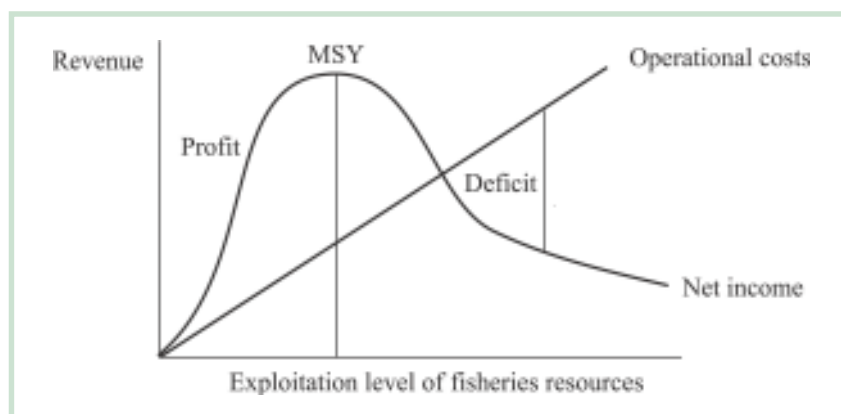
“Inaction in managing small-scale coastal fisheries now is at the antipode of generosity as it will result in the destruction of livelihoods of the very people we are willing and trying to support.”

The diagrams on the next page show the exploitation pattern of the fisheries resources both for industrial and small-scale fisheries.

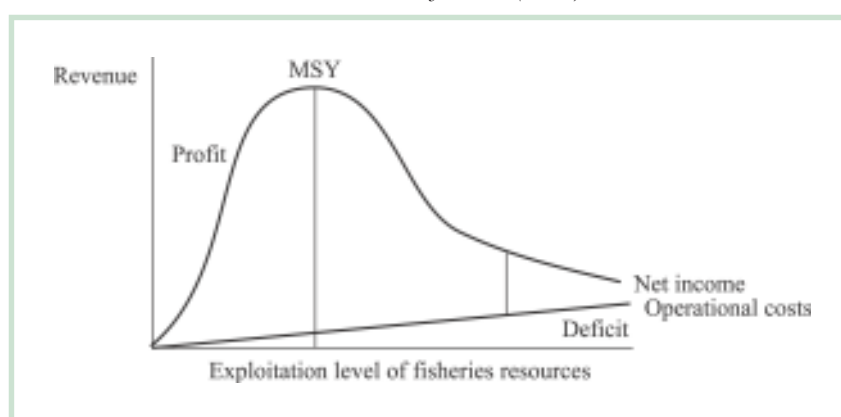
In industry fisheries, the end of profitability, once MSY has been exceeded, can be the main factor to stop or regulate their operation, as long as no subsidies are involved. On the other hand, the second figure clearly shows that small-scale fisheries have no such intrinsic regulator against overexploitation; they will continue to operate beyond the MSY with a diminishing but still positive income from fishing, because of their much reduced operational cost, unless offered possibilities of alternative livelihoods. In this context, small-scale operations can have far more serious effects on coastal resources as they will continue to operate in already depleted fisheries and reduce these to much lower and dangerous levels than industry fisheries will or could.

As inshore waters are generally identified as spawning and nursery areas for many commercial fisheries species, the deterioration of the resource base in these critical areas by an unregulated small-scale sector will eventually result in the deterioration of most fisheries resources. In this connection, it can only be stressed that an appropriate fisheries management program in inshore water for small-scale fisheries must be considered as a priority issue for the region.

There are many reasons for the governments in the region to develop an appropriate fisheries management



Exploitation pattern of the fisheries resources for industrial (above) and small-scale fisheries (below)



system for their small-scale fisheries sub-sector, including the following:

- 1) Improving the livelihood of the small-scale fishers in the long run
- 2) Addressing the current over-capacity situation in coastal waters
- 3) Resolving socio-economic and management problems including resource conflicts (which can only be resolved through an appropriate co-management system that must be developed in the coastal communities)

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Once the importance and urgency to manage small-scale fisheries has been understood and recognized,

learning from an existing successful system would be a constructive first step for consideration.

Learning from the Japanese Co-management System

It is in this regard that a simplified (and modified) Japanese coastal fisheries management system was presented in the RTC in Bangkok last November. Since the Japanese system has a history of development and modifications behind its long existence, and which are rather irrelevant for fisheries management in other countries, the current paper tries to simplify to its most essential features the system that is presented, pointing out the prominent issues for policy consideration in the region.

As the Japanese system (fishing right fisheries) is operating under the concept of an “open-access regime”, one of the important issues is to identify and apply appropriate and transparent regulations that any user-to-be must agree to and respect to be allowed to fish. An open-access system to common resources is

generally customary in Japan, thus any modification of the regime, either by limiting or regulating the access to the fisheries resources, would require a wide consensus not only from the fisheries sector, but also from the citizenry. The Japanese system has been developed without modifying the regime itself, which would have been hard to achieve in the short term, if at all.

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Issues mentioned in the paper may cover a wider scope than just the establishment of a rights-based management system for small-scale coastal fisheries; it will include issues related to policy, legal framework and appropriate supporting activities that should be undertaken under a co-management system.

The Japanese system has functioned over the last 60 years, effectively managing more than 200,000 coastal fishers operating through in widely diversified manners in various ecosystems. The system is a unified policy promoting a single co-management system, *not* the application of manifold methodologies promoting fishing rights.

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What kind of fishing-right is given to the fishers under the existing co-management system?

The fishing right has been given exclusively to the Fisheries Cooperative Association (also known as the Fisheries Co-op, see Box next page). Fisheries Cooperatives are, in principle, established at the community level, and so no individual fisher has the personal right to fish. Such arrangements effectively prohibit encroachment by local entrepreneurs, who otherwise could acquire multiple fishing-rights through the transaction of individual rights (although a system based on individual but non-transferable fishing rights could also effectively prevent such abuse).

Although the fishing right is characterized as having access to and use right for the fisheries resources in the coastal designated areas, the legitimate stakeholders (the Fisheries Coop and its Members) shall also bear the



responsibility to appropriately manage the fisheries activities in these areas in a sustainable manner.

During the establishment of the system of designated areas and Fisheries Co-ops, the exclusive fishing right was given to the Fisheries Co-op and its Members; however other fishers who historically had used the fishing ground in the newly designated areas could reserve a secondary access right which could be later possibly be converted into full membership. The actual provision of such secondary fishing right to these fishers was decided through mutual consultation with the concerned Fisheries Co-ops and in accordance with the regulations laid down by the responsible government agency. Fishers who received such a secondary access right were also obliged to follow the rules of fisheries set by the concerned Fisheries Co-op in its by-laws.

“The fishing right has been given exclusively to the Fisheries Cooperative Association, which are, in principle, established at the community level, and so no individual fisher has the personal right to fish.”

The fishing rights cannot be, in principle, transferable between Fisheries Co-ops unless the concerned Fisheries Co-ops and the government agencies responsible for the co-management mechanism agree by consensus.

The fishing-right has been considered as a use right for 1) members to exploit specific fisheries resources with appropriate fishing gear, or 2) defined water surface areas for aquaculture activities in the designated area. However, the right is not to be used as a kind of property right over coastal water areas. Hence, such a right cannot be used as collateral or other similar transaction that a property right can normally benefit.

However, compensation scheme is designed and applied if such a use right is violated by external factors, like pollution, that affect the normal usage of the right.

How the designated area has been delimited as a basis for the fishing right?

At the inception of the system, all coastal inshore areas where fisheries/aquaculture has been conducted

Box: What are Fisheries Cooperative Associations (Fisheries Co-ops)?

Under the co-management system developed in Japan, the day to day implementation of the fisheries management and enforcement activities are delegated to the Fisheries Co-op under national legal and policy frameworks. A Fisheries Co-op can be defined in both national and provincial legal frameworks as non-profit organizations with respect to their functions, roles and institutional set-up.

An exclusive fishing right in designated areas will be given to the individual members of the Fisheries Co-op. Only the members of the Fisheries Coop can conduct fishing and aquaculture activities in the area.

The structure and function of a Fisheries Co-op is as follows:

The Location: One Fisheries Co-op for one designated area (one Co-op/one community)

Council: The Council is legally developed as the decision making body of the respective Fisheries Co-op, which is composed of the representatives of the members, the representatives of the provincial and central government unit. The Council Meeting is periodically organized to adopt rules for the management and other economic activities, including the formulation/ revision of the by –laws of the Fisheries Co-op.

Below are some of the frequent issues discussed and agreed by the Council:

- 1) Use of various types of fishing gear in regulated manner.
- 2) Fishing seasons, including a closed season, and closed area(s) for particular species.
- 3) Development program for fisheries, including proposals for government assistance (like demonstrations of appropriate fishing practices, resource enhancement programs, or the construction of required infrastructures).
- 4) Exit and new entry of Members (see below).
- 5) Settlement of local conflicts among members and appropriate penalties for violators of the rules.
- 6) Supervision of the institution’s economic activities and financial management. The Coop must be self-resilient.



A typical fishing community in rural Japan, Nariu, Kyoto (courtesy of the Fisheries Agency of Japan)

were divided by Prefectural boundaries (the Prefecture is a Japanese administrative unit at the level of the Province in countries like Indonesia or Thailand) as Prefectural waters. The width of the areas from the shoreline going off-shore was decided by taking into account factors like the existing usage pattern of the water by coastal small-scale fisheries and the range that could be managed effectively by the Co-op (in most cases, it was delimited at no more than 3 miles from the shoreline).

“The fishing rights cannot be, in principle, transferable between Fisheries Co-ops unless agreed by consensus.”

The designated fishing areas managed by each Fisheries Co-op under the co-management system were then allocated within the Prefectural waters where they are located. Generally, the designation of the delimited area of each Fisheries Co-op was a question of

determining a proper length along the coast line, while staying consistent with the boundary of the Prefectural water. That length was mostly determined while keeping the two following factors in mind.

- 1) The boundaries of individual designated areas should be in line with the historical community boundaries (not specifically with a fishery perspective).
- 2) The boundaries of individual designated areas should also accommodate traditional fishing areas and fishing grounds' use pattern by each fishing community.

To ensure efficient implementation of the established management measures, effective enforcement mechanisms and supporting economic activities (guaranteeing the Co-op's financial sustainability), the designated area for the Fisheries Co-op was, in general, designed to accommodate 200-500 fishermen's households.

General views on co-management

Very often government agencies responsible for fisheries management are much smaller than those of the farming sector, although they have a greater burden as they are responsible for the common fisheries resources. Very often, the structure and capacity of the fisheries agencies, both at central and local levels, are also too small to ensure that the required fisheries management tasks are effectively carried-out. In most cases, local government agencies are just not equipped well enough to provide the required services for fisheries management, usually because of technical and financial limitations. The logical option is to share these management responsibilities with appropriate “private” institutions.

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In Japan, the delegation of selected fisheries management authorities to the local institution, including day to day management of the Co-op and its Members and limited fisheries management and informal enforcement actions, resulted in a successful system. This co-management mechanism was nonetheless realised under the close supervision and within the framework set by the relevant government agencies.

Meanwhile, most of the ASEAN Member Countries are considering adopting a co-management system through the decentralization of some management responsibility to local government authorities, not to the “private” sector mobilizing fishers groups like the Fisheries Co-op developed in Japan. Thus, the option developed in Japan, if adopted in the region, will require a drastic policy adjustment, which must take into account the existing system. However, considering the institutional weakness of the local government agencies in most ASEAN Member Countries, such options can be worth exploring as a basis for policy formulation.

In Japan, fisheries management responsibilities have been demarcated at a different level as presented below.

At central level

The Central Government agency provides the national Co-management framework. Appropriate policy is established at the national level together with various guidelines for their implementation at the Prefectural and local levels. Terms of References for identified parties with respect to fisheries management and other required services are also clarified. The appropriate legal provisions, including the delegation of fisheries management authority to each party, are clarified. The central government provides appropriate services to the system through close monitoring of how the management activities delegated to the lower levels are carried-out. The required services include coordination with other sectors, and technical/financial assistance as required, including various subsidies.



*Operation of co-management
(courtesy)*



*Crystal trap net fishery, Hisaka Island, Nagasaki
Agency of the Fisheries Agency of Japan)*

At Prefectural level

The Prefectural government agency provides the regional framework (adaptation of the co-management system with appropriate focus given to the provincial specificities). It also coordinates and monitors the practical usage of its coastal waters (e.g. assessing the suitability of the designated areas for individual fishing communities in their administratively responsible area). Every 10 years, the designated areas in each Prefecture will be reviewed based upon this assessment. The Prefectural government also coordinates management actions with its Fisheries Co-ops, including appropriate interventions to solve any management conflicts among these. Finally, it monitors fisheries management activities undertaken by the Co-ops and periodically reports to the central government for their further coordination and suggestions for improvement.

At community level

Fisheries Co-ops, in principle, were established at each community level to empower fishermen with day to day fisheries management, and to allow them some scope for local, although informal, enforcement actions under the national framework and Prefectural regulations. With technical assistance from the Central and Prefectural government units, the Fisheries Coops have developed appropriate by-law that serve as guidelines for their management and the economic activities in their designated area.

Who is eligible to be a Member of the Fisheries Co-op?

Clear criteria for determining who is eligible to become a Member of the Fisheries Co-op, and a transparent mechanism to select the Members based upon these criteria, must be assured under an open access regime.

“The Fisheries Co-op functions as a key player within the established co-management system.”

At the establishment of the system, the selection mechanism of the Members of the Fisheries Co-op follows these criteria:

- 1) The applicants should depend on fisheries as a professional livelihood for a majority of the year
- 2) The applicant must live in the community
- 3) The applicant has appropriate assets/technology to conduct responsible fisheries in regard to the Co-op's fishing rules.
- 4) The applicants are deemed willing to comply with the rules and regulation set by the Institution.

The Fisheries Co-op functions as a key player within the established co-management system. An appropriate



numbers of the Fisheries Co-op staff have been locally recruited (with wages paid by the Co-op) to conduct the administrative and financial activities, provide the required services and to assist the Members to fulfil their responsibilities toward the Fisheries Co-op.

In practice and with time, a self-regulating mechanism may start to limit the numbers of members in the Fisheries Co-op. As the given fisheries resources covered by the fishing right are limited, or even

deteriorating if subject to over-pressure, the Co-operative itself tends to limit the numbers of its Members to obtain a larger share of the given resources, and endure its sustainable exploitation. With appropriate supervision of the relevant government agencies, such a self-regulating mechanism might be a very important factor to alleviate the present over capacity situation if a similar system is adopted in the region.

How the economic sustainability of the Fisheries Co-operative is secured?

In the ASEAN region, many attempts have been made to create local institutions carrying some management responsibilities, but most have failed when it came to ensure their financial sustainability once donors/support withdraws. There are many factors related to such failures, including conflict between established institutions and the prevailing mechanism. A lack of a mechanism to make the newly created local institution financial sustainable is nonetheless one of the major constraints in achieving successful co-management in Southeast Asia. As continuous financial support by the Government agency through a program or through subsidies is unlikely to be feasible in the long term, a self-sufficient system must be developed through institutional building exercises if any co-management is to be

promoted at all.

The Japanese system has a legally supported mechanism to accommodate economic activities as an important function of the fisheries Co-op in addition to its management responsibility.

The Fisheries Co-op conducts the following two main economic activities, carried-out by its recruited staff, which ultimately ensures its financial sustainability:

1) To conduct public auctions for the sale of the Members' catch, which with appropriate government and legal support, will help the Member to obtain stronger bargaining power for their sales to the market sector.

2) To bulk purchase the required goods (fishing gear, engines and other equipment and basic consumable items for the use of Members.) The bulk purchase can economize the cost compared with individual purchases.

“In the ASEAN region, many attempts have been made to create local institutions carrying some management responsibilities, but most have failed when it came to ensure their financial sustainability once donors/support withdraws.”

Based upon a nationally standardised agreement from the Councils that the Co-ops must sustain themselves through their Members' activity, a commission is taken from the sales of fish through auction, and/or from the mark up of equipment bulk purchase.

How are conflicts settled and rules enforced at the community level?

In the case of Japan, the Fisheries Co-op is not formally empowered for the enforcement responsibility. However, internal conflicts and violation of the rules among the Members are settled through an internal mechanism, including the Council. When there are conflicts or no compliance by external people with the rules set by the Co-op, outside existing mechanisms like Prefectural Government or the police, depending on the severity of the offence, will take appropriate action to settle the conflict.

“...a self-sufficient system must be developed through institutional building exercises if any co-management is to be promoted at all.”

With the enhanced ownership of the designated areas and privileges of exclusive fishing right to exploit the fisheries resources, the conflicts have nonetheless been minimized. The mutual surveillance system naturally developed among the Members, ensuring that each operates in respect to responsible fisheries principles set in place by their Co-op, further encourages the reduction of conflict.



Conclusion

In looking for suitable management approaches for small-scale coastal fisheries for the ASEAN-SEAFDEC member countries, some features of the Japanese coastal fisheries management system may provide guidance to fisheries policy makers and managers. Most notable among these are the combination of an area-based management approach with community user

rights. Through this approach, access to coastal fisheries resources is effectively regulated and limited to clearly specified user groups. Another important facet of the Japanese system is the creation and establishment of effective, financially viable and functioning management institutions at the local level. In these fisheries Co-operatives, the fishers can actually take part in decision making processes regarding the management of their community's coastal aquatic resources.

Some of the ASEAN-SEAFDEC Member Countries have already established or are developing fisheries management approaches with similar features: In the Philippines, the creation of Fisheries and Aquatic Resource Management Councils at the local level and the designation of municipal waters reserved for municipal fisherfolk, tries to combine an area approach with user-group approaches. Similar efforts are expressed in the system of community fisheries in Cambodia and can be found in the draft of the new Fisheries Law of Thailand.

Among the most important lessons the countries of the region can learn from the Japanese approach to the management of small-scale coastal fisheries is the

importance of clearly defining and specifying the roles, functions, responsibilities and authorities of the various institutions and administrative levels.

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As a direct follow-up of the RTC on Rights-based fisheries management, the SEAFDEC Member Countries could use these basic features of the Japanese coastal fisheries management system as introduced and discussed as a frame against which to assess the current situation of their own coastal fisheries management approaches and systems. By doing so, they may be able to identify areas of concern and strategic action for strengthening and improving their existing fisheries management systems, in the light of the Japanese experience.



About the author

Yasuhisa Kato, Ph. D. in population dynamics and marine ecology, was successively President of Overseas Agrofiseries Consultants Co., Director of the FAO's Operation Services and later on Policy and Planning Division. He is today Special Advisor for SEAFDEC, based at the Secretariat, Bangkok.