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# A FRESH APPROACH TO FISHERIES MANAGEMENT: Creating Legal Space for Co- Management

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*Issue Brief 6 in series “Hen Mpoano: Our Coast, Our Future”*

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## Hen Mpoano

THE  
UNIVERSITY  
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For more information on the Integrated Coastal and Fisheries Governance project, contact: Coastal Resources Center, University of Rhode Island, Narragansett Bay Campus, 220 South Ferry Road, Narragansett, Rhode Island 02882, USA. Brian Crawford, Director International Programs at [brian@crc.uri.edu](mailto:brian@crc.uri.edu); Tel: 401-874-6224; Fax: 401-874-6920.

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# Hen Mpoano

## A FRESH APPROACH TO FISHERIES MANAGEMENT: *Creating Legal Space for Co-Management*

*This Hen Mpoano Issue Brief is the sixth in the series and a sequel to the fourth brief. It seeks to sustain an informed dialogue on fisheries governance in Ghana. This brief outlines some of the outcomes of the 3<sup>rd</sup> National Fisheries Dialogue held on 26-27 February 2013 at Elmina.*

### **Importance of the Fisheries Sector**

The importance of fishing as an economic activity in Ghana cannot be overemphasized. It is a source of livelihood for about 10% of the population whose activity, both men and women, depend on the fisheries resources through catching, processing, marketing of fish and other ancillary activities; and also food security for the Ghanaian community as a whole. The importance of the fisheries sector to government was demonstrated by the recent re-establishment of a ministry responsible for fisheries with cabinet status.

### **Fisheries Policy Environment**

In 2002, the law on fisheries was consolidated with amendments into the Fisheries Act 625; to provide for the regulation and management of fisheries; provide for the development of the industry and the sustainable exploitation of the fishery resources and to provide for co-ordination of policies affecting utilization of resources. The Law, its monitoring and enforcement has remained with central government authority and the management system, in the main, is top-down.

### **The Fishery**

The Ghanaian fishing fleet - the artisanal canoe, inshore semi-industrial and the industrial trawlers, exploit small pelagic (mid-water to surface dwelling fish) - sardinella, mackerels and anchovies for local consumption, demersals (bottom dwelling fish) - grouper, sea bream, cassava fish, cuttlefish, lobsters, crabs, etc. are also landed. Some canoes also exploit fish in lakes, lagoons and in the estuarine fisheries. All categories of the fishing fleet continues to increase in size while landings have decreased.

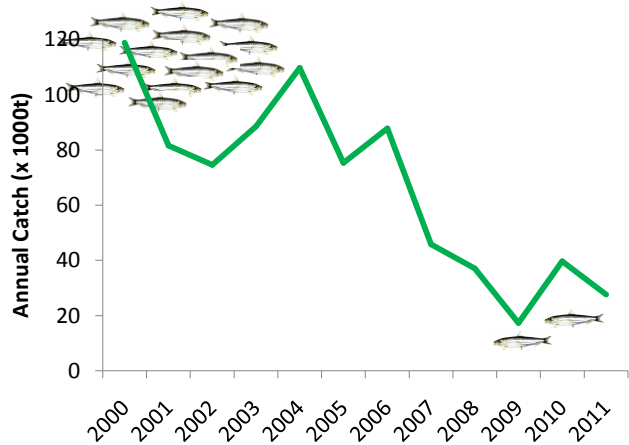
Canoe catch of the sardinella in 2005 was 13% of the historical maximum in 1992. Fisheries scientist have noted that when yield is less than 10% of historic maximum the fishery must be considered as having collapsed. In this current situation, the sardinella fishery can be considered as near collapse or collapsed.

### **Fisheries Management**

Classical top-down management and decision making has not prevented *over-exploitation* of the fish stocks which is a very terrible and worrying situation. It is very clear that food security, employment,

economic growth and profitability are seriously at risk. There is therefore the need for *urgent* transformation.

**If the canoe sector will continue to remain the heart of Ghana’s fisheries then the resource users and other stakeholders must be part of the rule making and the management of the fisheries resources whose harvest is at an all-time low and reaching a crisis.**



At present, the involvement of fishers in the management of the fisheries in Ghana is less well defined and therefore the need to develop an arrangement or a new paradigm which allows for a mix of a top-down and bottom up system for fisheries management.

### **Window of Transformation**

Fishers and fishing communities are calling for reforms in enforcement of laws, and with their engagement in the process of governance at all levels. It is therefore imperative to develop an appropriate and supportive institutional framework for the implementation of fisheries co-management in Ghana. One of the essential requirements for a successful co-management framework is the establishment of a policy and legal framework for it.

### **Co-management**

Co-management is an approach to management in which the government shares certain authority, responsibilities and functions of managing the fisheries with resources users as partners. The form of partnership will depend on the desired long term fisheries management objective to be achieved, but these objectives must be clearly established at the outset.

There is sufficient policy recognition for fisheries co-management in Ghana. This is evidenced by the National Fisheries and Aquaculture Policy 2008, the Draft Fisheries and Aquaculture Sector Development Plan 2010-2015 and the current World Bank funded West African Regional Fisheries Programme (WARFP). However, it will be necessary for detailed guidelines and an implementation plan to be developed by the Ministry of Fisheries and Aquaculture Development preferably through a Cabinet Memo and accompanying drafting instructions to give legislative effect to co-management in Ghana.

**The existing fisheries (Fisheries Act 625 of 2002 and Regulations LI 1968 of 2010) and decentralization (Local Government Act 462 of 1993 and LI 1961 of 2009) legal frameworks are not capable of supporting a co-management framework without amendment or supplementation. Fisheries management is not decentralized under Ghana’s local government system and therefore not capable of providing a framework for implementation of some aspects of co-management at the local level. Policy and legislative framework for both fisheries and local government must be cross linked to achieve decentralization of fisheries functions to implement fisheries co-management at the local level.**

In the short term, the Fisheries Act 2002 can support a limited form of co-management through the establishment of fisheries advisory committees/groups without the need to amend the legislation. However, such committees/groups will have no decision making powers.

In the long term, however, legislative change both through (a) amendment to the Fisheries Act 2002 by adding a new part on co-management and (b) accompanied by an appropriate Legislative Instrument on co-management will be necessary to implement an effective fisheries co-management framework for Ghana. The imperative for fisheries co-management arises from the lack of capacity in fisheries agencies to successfully regulate what goes on in a widely dispersed fishing ground in Ghana. Some of the recognized benefits of co-management arrangements in fisheries include:

- strengthening of commitment to and participation by stakeholders
- more suitable and effective regulations
- enhanced acceptability of and compliance with management measures
- greater reliability and accuracy of data and information
- reduction in enforcement costs
- reduction in conflicts and
- opportunities to allocate use rights

A desirable framework for co-management in Ghana was discussed and agreed upon at the 3<sup>rd</sup> National Fisheries Dialogue held at Elmina on 26-27 February 2013. This framework is based on three scales of management - national, regional and local levels. Not discussed at the dialogue but included below are recommended provisions that allow for the granting of use rights to various groups if the government so chooses to do so. While we do not feel there is any consensus on this topic among stakeholders at this point, the topic needs to be debated more fully and any amendment to the Act should not preclude this possibility as many believe it is a key factor in moving to sustainable fisheries management worldwide.

### **National Scale Co-management**

The national scale co-management framework will cover pelagic fisheries and will require the establishment of the National Pelagics Fisheries Management Committee (with possibility of creating sub-committees for small pelagics and large pelagics). The National management framework and rules will be developed by the Ministry of Fisheries and Aquaculture Development and Fisheries Commission in collaboration with the national committee/committees. Enforcement of the rules will also be at the national level. Consideration should be given to either the Commission itself, or the National Committee, the ability to grant use rights to legally constituted user groups as part of any fishery management plans or management measures put in place to ensure sustainability of the fishery. This could include an allocation of a total annual catch quota, or exclusive rights to specific fishing areas.

### **Regional Scale Co-management**

At the regional levels, Regional Co-management Committees will be established for marine demersal fish for each of the four coastal Regions in Ghana. Implementation will require the designation by the Fisheries Commission of marine demersal co-management units at each regional level, supported by the establishment of Regional Demersal Co-management Committees. Management planning and

approval will be decentralized to the regional representative of the Fisheries Commission at the regional level. Each regional plan will have its own set of rules and can include granting exclusive use rights to legally constituted user groups as one means to regulate access and manage fishing effort. There will be no requirement to have national rules consistent across all four management regions. However, regional rules cannot contravene national laws or regulations such as a ban on use of chemicals or fine mesh nets in fishing. Enforcement of the regional rules will be through the Fisheries Commission and Marine Police within each region.

### **Local Scale Co-management**

The local scale co-management framework will cover lake, lagoon and estuarine fisheries. The key aspects of the local scale management framework will include in the following:

- The establishment of Local Fisheries Management Areas and corresponding co-management units and Management Plans by Regional Directors of the Fisheries Commission at the request of user groups. Such groups, if legally constituted, can be granted exclusive rights to a certain fishery or area and required to form co-management committees and develop management plans for the fishery or area.
- For overlapping boundaries, the Fisheries Commission will be mandated to designate boundaries and designate management areas under which the groups will form co-management committees and tasked with developing a management plan.
- Local Fisheries co-management plans will be developed by each group, with support by the Regional Director of the Fisheries Commission following a technical review. Such plans can be adopted by district assemblies as a "local plan" as part of their spatial planning procedure, if these exists.
- Members of a particular group cannot exclude non-members from fishing in their management areas unless granted exclusive rights to a certain fishery or area. Groups should be able to regulate access by their members and outsiders, as well as charge fees for access.
- Rule-making and rule enforcement at the local management scale will take place through local by-laws made by each group and enforced either as District Assembly by-laws or as Fisheries Commission by-laws.
- To avoid the long process of approval by the District Assemblies and the Fisheries Commission, once a local co-management committee is established and its plans are approved, that committee would be responsible for reviewing the plan annually and making changes to the rules or management measures as necessary to management resource sustainably. The changes will be formally recognized in law through Gazette notices or through public notice in a local newspaper.

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