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POLICIES, PROBLEMS, LAW AND REGULATIONS WITH
REGARDS TO INSHORE FISHERIES RESOURCE
MANAGEMENT IN FIJI

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1.0 BACKGROUND

Fiji comprises about 844 islands and islets (approximately 106 inhabited), scattered in the area 15° - 23° S, 177° E - 178° W. The country is divided into 14 provinces and Rotuma, and the islands may be divided into several distinct groups: Rotuma; Vanua Levu and associated islands; the Lau Group; the Lomaiviti Group; the Yasawas; Viti Levu and associated islands; and Kadavu. The main archipelago has a total land area of approximately 18,333 km², of which 87 per cent is accounted for by Viti Levu (10,386 km²) and Vanua Levu (5,534 km²).

The Fiji group of islands mark the eastern boundary of Melanesia (Lagibalavu, 1993) and has developed it's own characteristic features. The early Fijians were great seamen and possessed fine ocean-going canoes capable of travelling long distances using celestial objects as navigational guides. Sea products was the major source of protein and fish has traditionally being served at most meals. The main occupation of early Fijians were farming and fishing and virtually everyone has fishing experience. Although there were groups identified as traditional fishermen, these people were specifically called upon to fish for special functions while everyone was responsible for catching fish for own consumption.

Fiji became a British Colony in 1874 until it gained independence in 1970. After becoming a British Colony, the establishment of sugar-cane plantations led to a serious labour shortage. The country's first Governor, Sir Arthur Gordon, convinced the planters to bring Indians to Fiji as labourers. Kay, (1990); reported that 60,000 people had come to work on plantations. Fiji is now an independent Republic. It is

estimated that the population at the end of 1989 totaled 726,000; comprising 352,000 Fijians (48 per cent), 338,000 Indians (47), 18,000 Others (2), 10,000 Part Europeans (1), 4,000 Chinese and 3,000 Europeans. The total population in the year 2000 is forecast to reach 805,500.

An historical event that have serious implications for the Fijian rights, was when Fiji was ceded to Great Britain on the 10th of October, 1874. It legalised the implementation of laws from a foreign land, however, additional ordinance was put in place whenever the need was felt (Lagibalavu, 1993), to supplement the laws of the local people that were based on customs and traditions. Before the treaty for the Deed of Cession was signed, the chiefs of Fiji expressed their concern and sought to protect their rights by insisting on some conditions to protect traditional rights. This was to no avail as the Crown representative stated that such conditions would only hamper their rights instead, and in the end, chiefs agreed trusting on the generosity and justice of the Crown (Lagibalavu, 1993) accepting the British Crown as their paramount chief. In good faith, in accordance with their chiefly custom, fully believed that the land and fishing grounds would be returned and the Cession would not extinguish their rights.

Clause-1 of the Deed of Cession asserted that the whole group, reefs and foreshore were given away but clause-7 mentioned that the rights of the Fijians and their chiefs are recognised but would be subject to the rights of the crown. It empowered the Colonial government to formulate any law considered appropriate to the colony.

In 1877 and 1880, the chiefs made two representations to the Queen concerning the subject of Fijian fishing rights. The Fijians have been concerned that laws on the fishing rights appeared to be in variance with the wishes of Her Majesty Queen Victoria. In response, Her Majesty expressed that the matter was to be carefully investigated, and further mentioned that the Fijian people will not be deprived of any rights in those reefs which they have enjoyed under traditional laws and customs. Her Majesty assured that measures will be taken to securing each *mataqali* (clan), the reefs that properly belong to it, exactly the same way as the rest of their land would be secured to them. Since the Deed of Cession, property rights on the coastal waters of Fiji have been operated under dual ownership system. This system saw the government owning the waters and seabeds of all territorial waters within which lies the Fijian Customary Fishing Rights (FCFR) and the traditional law of tribal ownership of fishing grounds. In this regard, Fijian rights of ownership have never been exclusive. A Native Fisheries Commission (NFC) was established some years later to ascertain rightful native hereditary property owners for each *qoliqoli* (traditional fishing ground).

2.0 RESPONSIBLE BODIES

Responsibility for fisheries resource matters lies with the Ministry (Minister) of Agriculture, Fisheries and Forests. Within this Ministry, the Director of Fisheries oversees the work of the Fisheries Division of the Department of Agriculture and Fisheries, which has its headquarters at Lami, on the western outskirts of Suva. Fisheries Division has Divisional offices in Lautoka (Western Division), Labasa (Northern Division), Nausori (Central Division) and Lami (Eastern Division). Respectively, these service subsidiary offices in Rakiraki, Tavua, Ba and Sigatoka (Western); Taveuni, Savusavu, Lekutu and Nabouwalu (Northern); Navua and Wainibokasi (Central) and Lakeba, Vunisea and Levuka (Eastern). The Fisheries Division also has fisheries research stations at Naduruloulou and Dreketi (freshwater aquaculture), Laucala Bay (product development) and Makogai Island (mariculture). The Fisheries Division has 115 established staff and its work falls under 3 main sections: Extension, Resource Assessment and Development, and Technical Services.

The main task of the Extension unit is to provide advisory service to all rural fishermen with the supply of vessels, provision of loans or grant assistance, training, licensing and regulatory activities. The task

of the Resource Assessment and Development section is to assess and regulate and develop Fiji's marine resources. Another important task of the RA&D section is to collect fish and non-fish production data which is important to both fishermen and the Fisheries Division, because the data collected are the basis for the formulation of fisheries policies and government economic strategies, as well as providing the early warnings on problems in the fishery. The main task of the Technical Services section is to provide infrastructure facilities such as building boats, provision of ice, jetty, and manning of vessels.

The Native Land and Fisheries Commission (NLFC) has the responsibility of getting fishing rights areas surveyed, holding inquiries to settle boundaries with traditional owners, maintaining a register of all owners, and handling appeals. It is responsible for deciding the ownership and boundaries of fishing rights areas, in consultations with the people. After the passing of the fisheries ordinance in 1942, the Native Land and Fisheries Commission was established and began investigations of customary fishing rights in the provinces of Rewa, Serua and Tailevu. The commission has collected and recorded all claims over Fiji which totalled 410 fishing rights. A project unit was sanctioned in 1989, to complete the surveys and record all the *qoliqoli* in order for each *qoliqoli* to have a title and a map.

The District Administration is responsible for deciding, which commercial fishermen shall be allowed to fish in customary areas, in consultation with the owners of customary fishing rights and Fisheries Division. In effect, it issues permits to fish on behalf of the owners of the customary fishing rights.

The key responsibility for resource management and control of commercial fishing in the lagoons and on reefs lies mainly with the registered owners of each customary fishing rights area. Through the permit system, Fijian people can determine which commercial fishermen are allowed to fish in their area, and also impose restrictions on each fishermen.

3.0 LAWS AND REGULATIONS

The laws relating to marine resources in Fiji are enshrined in Chapters 158, 158A and 149 of the Laws of Fiji. Chapter 158, the Fisheries Act, recognises the Fijian people's customary right to fish in traditional fishing grounds (*qoliqoli*), and allows the owners of customary fishing rights to advise the District Commissioner and Fisheries Division which commercial fishermen shall be allowed to fish in their area and to impose restrictions on commercial fishermen. The colonial administrators who wrote the fisheries act, in 1941, were very careful to recognise the customary rights to fish in traditional fishing grounds. Although the ownership of the seabed belongs to the government (as in other countries), all Fijians have the right to fish for their own consumption.

Fisheries Division is responsible for enforcing fisheries laws inside and outside the reef. The Division grant licences to fish in customary fishing rights areas, only to fishermen, who have already obtained a permit from the head of the relevant ownership unit.

The Minister for Agriculture, Fisheries and Forests may make regulations under the Fisheries Act relating to the management of fisheries resources, which after Cabinet discussion and approval, are promulgated by publication in the Fiji Gazette. Fisheries Division relies on traditional administrations to take responsibility for the regulation of inshore fisheries, while it concentrates on the deep-sea fisheries, mainly those for tuna and deep water bottom-fish. Fisheries Division also has a network of Honorary Fish Wardens, appointed by the Minister on the request of the head of the unit which owns the customary fishing rights, their duties being centred on the prevention and detection of offences under the Fisheries Act and the enforcement of the provisions of the Act.

4.0 POLICES

There is increasing emphasis on management and control of resources and acknowledgment of a need to encourage fishermen to fish offshore, so as to preserve inshore resources. The broad objectives for the development of Fiji's fisheries sector are to:

- further develop fisheries of the EEZ and territorial waters;
- improve quality of and increase value added to exports;
- regulate and control all fisheries on the principles of optimum utilization and long-term sustainability;

Fisheries Division recognises four primary sub-sectors of the fisheries sector:

- The industrial fishery, which operates on a large-scale and is primarily export-oriented. It includes the Pacific Fishing Company (PAFCO) tuna cannery at Levuka, and tuna capture and supply by both local and overseas vessels. The deep-water snapper and domestic tuna longline fisheries have been included in this category since 1990.
- The artisanal fishery, which includes most small-scale commercial production for domestic sale. Artisanal fishing activities concentrated within the inshore areas. It is a significant source of domestic fish supply and employment.
- The subsistence fishery, involving catches for home consumption, with the occasional sale of surplus catch.
- Aquaculture, which is gradually moving out of the experimental stage and has the advantage of not being based on limited natural resources.

5.0 PROBLEMS

For the inshore fisheries resources in Fiji to be managed appropriately, effective solutions to certain problems, has to be identified. This may need to be addressed immediately and would require coordinated efforts between various government departments as well as non-government organisations. Problems may be classified as follows:-

5.1 Comprehensive Legal Recognition of Fishing Rights

Management of inshore fisheries resources in Fiji is quite complex mainly due to the dual legal system of ownership which was put in place after Fiji was ceded to Great Britain. Prior to the Deed of Cession, the Fijian system of ownership was strongly based on communal lifestyle as earlier mentioned, which had enable the society to control the resources and fishing activities as seen in other South Pacific countries. The system was not only seen as able to control access to the resources but capable of handling contemporary issues of development, however the rights were lost when Fiji was ceded to Britain and this baffled the traditional owners to the extent that it became a cause of contention. The total authority that they had on the resources were being challenged by modern law and an alien authority. This system become a constraint to development as well as resource management.

This system is probably the most comprehensive legal recognition of customary fishing rights in the world. Other Pacific countries do not have such comprehensive safeguards and customary fishing rights in these countries have been greatly reduced over the years.

A lot of problems, with regards to fisheries resource management, is caused by this comprehensive legal system. Such system has created problems such as lack of compliance, conflicts and contentions

(between Fisheries and custodians, custodians and licenced fishermen, mataqali and their chiefs, Fisheries and licenced fishermen and Fisheries with District Administrators), illegal fishing practice, and most importantly the difficulty faced by Fisheries to implement effective regulations and the enforcement of those regulations.

5.2 Overlapping Responsibilities

Overlapping of responsibilities between various government Departments have some negative impact on the management of inshore resources. The mangrove ecosystem which is a very important breeding ground, nursery, refuge, feeding ground etc; for many inshore fisheries resources, is managed by the Forestry Department as well as the Lands Department. Fisheries Division has no control over reclamation and deforestation within the mangrove areas.

5.3 On-shore Activities

On-shore activities such as use of chemicals in agriculture, removal of forests, dredging and waste dumping in urban centres are increasingly becoming a concern. Increasing level of silting as well as chemical discharge, resulting from commercial agricultural activities, dredging and forest removals, are becoming a threat to the survival of populations of coral outcrops near estuaries, stocks of some non-fish species, such as *qari* (mudcrabs), *kai* (clams) and beche-de-mer. Stock assessment surveys will be required to verify these assumptions.

A few cases of massive fish kills have been recorded in the past, as well as cases of bivalve poisoning possibly due to on-shore discharge or activities. Lack of regulations over the control of on-shore activities may be viewed as not serious at this stage but its adverse impact on inshore resources, especially sedentary animals cannot be ignored for too long.

5.4 Lack of Compliance

As earlier mentioned, non-compliance, is induced by factors such as the dual system of fishing right ownership, clashes between traditional laws and modern laws, different interpretations of the Fisheries Act and lack of Fisheries staff and funds to enforce laws and regulations, especially size limits, closed seasons, and gear restrictions.

There are laws regulating the size of nets that can be used, and the minimum size of mesh that is allowed is 2 inches, measured by pulling diagonally opposite knots of the mesh apart. There are several exemptions to this law, for example the provision for cast nets and hand nets. Some people especially custodians have been found using prohibited mesh sizes and selling undersize fish. Fisheries officials more often come across undersize mudcrabs, turtles, trochus and beche-de-mer, exposed for sale.

Though the use of breathing apparatus for fishing purposes is prohibited by the law, hookah gears is still being used for harvesting beche-de-mer, trochus, and other purposes.

The Fisheries Act prohibits the killing of turtles of the size less than 455 mm as well as the digging or destroying of turtle eggs. Since turtle egg is a delicacy to the Fijian people, removal of eggs from their nests is still practiced. The Fisheries Act also clearly stated that no person during the months of January, February, November and December, shall in any way molest or take or kill turtle of any size but unfortunately turtles are still caught and killed in some places within Fiji during these months especially for traditional functions.

Fisheries staff find it difficult to enforce fisheries regulations effectively because of fishing right ownership system, culture and traditions, lack of enforcement officers, limited operational funds and distances between islands.

5.5 Conflicts And Contentions

Fisheries officers had been exposed to various conflicts and contentions while attempting to regulate fishing activities within the inshore areas. Fijian fishing right owners regard the resources as their 'God given property', therefore should be given the freedom to do whatever activity or employ whatever fishing method they desire. Fisheries Enforcement Officers on many occasions are exposed to threats, arguments and humiliations, when attempting to confiscate undersize fish, crabs, or to check fishing license, especially from Fijian fishing right owners.

It has been observed that licensed fishermen are sometime confronted by members of the clan or fishing right owners because they were not being told of the permit issuance by their chief. There had been cases where total catch of licensed fishermen were confiscated by clan members, in protest against their chief, for issuing licenses which they felt was affecting their subsistence catches.

Recently, the coral fishery has raised some very sensitive concerns, which is causing major conflicts amongst different clans, chiefs versus chiefs, Fisheries versus chiefs, collectors versus non-collectors within a clan and this has also raised the concern of the tourist industry.

5.6 Illegal Fishing Practise

Employing illegal methods of fishing is becoming an increasing problem. This includes the use of dynamites, derris roots, SCUBA gears and some lethal chemicals like cyanides. Cyanides had been reported recently as being used by divers to collect aquarium fish. This chemical is very detrimental to the survival of corals.

Catching of undersize trochus, beche-de-mer and mother of pearl, are still widely practiced in Fiji, due to the market prices and acceptance. Button factories continue to receive and purchase large volume of undersize trochus and process them to button blanks in order to avoid detection. It has been reported that undersize beche-de-mer are being processed into thin strips and exported.

Recent surveys and export informations suggest that stocks of some sedentary organisms such as pearl oysters, trochus, clams and sandfish are generally in very poor condition. Part of the reason for this, is thought to be the previously uncontrolled proliferation of the use of hookah underwater diving equipment.

5.7 Implementing New Regulations

The Fisheries Division continued to be confronted by the Fishing Right Owners, fishermen, and exporters with regards to implementation of new regulations. Currently, the most sensitive one is the coral fishery. Placing a harvesting ban on certain areas, has raised objections from exporters.

The south-eastern side of the main island (Viti Levu) had been heavily exploited in the last 10 years, therefore the government has placed a ban on harvesting around the whole island. Due to political and economic pressures or influence, corals are still being harvested from reefs on Viti Levu. This makes the work of Fisheries officers difficult and confusing at times.

Another recent case is the total ban on turtles for the year, 1995. The moratorium on turtles has been rejected by many Fijians, with the argument that turtle is part of the Fijian tradition.

5.8 Lack of Reliable Data

For the Fisheries Division to implement regulations, it needs reliable and convincing data to support its submission. Unfortunately, getting such data has not been possible on many occasions due to various constraints, especially lack of funds as well as trained personnel. For instance, getting good data on the impact of coral harvesting on fisheries resources is not easy.

5.9 Customs and Tradition

The turtle ban for the year, 1995, has raised a lot of concerns from the native Fijians. Turtle is regarded as a chiefly food and is part of traditional chiefly functions. It is quite an enormous task for the Fisheries staff to police and enforce the ban. There is a clause on the guideline which permits the Minister for Agriculture and Fisheries to exempt the molesting and killing of turtles, for traditional purposes. The native Fijians are taking advantage of this exemption, and until June, 1995, approximately a number of 23 turtles had been approved by the Minister to be used for traditional purposes.

6.0 FUTURE

The management of nearshore fisheries, both artisanal and subsistence, vested as it is with traditional fishing rights owners, will need to be geared towards co-management between these owners and Fisheries Division. Fisheries awareness programmes could be used to emphasise the positive aspects of community-based management, which draws on scientific information about the various resources provided by government officers working closely with resource owners.

There are continuing concerns regarding the artisanal fishery and its effects on Fiji's nearshore resources. Area closures and bans on gill-netting for reef fish, particularly in the north and west of the country, seem to have been effective in restoring stocks of some groups, such as *nuqa* (mullet) and *kanace* (mullet), therefore this will be encouraged in the future.

The deployment of Fish Aggregating Devices (FAD) by Fisheries Division will be enhanced in order to remove fishing pressure away from demersal reef fish to pelagic species.

The subsistence fishery is extremely important, supplying a large portion of the protein requirements of the rural population. Though the size of the subsistence catch is not known with any certainty, it is thought to be between 10,000-20,000 mt per year. The results of a subsistence fisheries survey of 2,553 households among Fijian villages and Indian settlements conducted during 1993 is expected to greatly refine this estimate. It is intended to extend this subsistence survey to the Northern Division but this would very much depend on availability of funds.

The concept of marine reserves will be encouraged and current response from the fishing right owners towards this are very positive.

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