

Towards a Modern Commons

The Community Fisheries organizations in Cambodia possess the basic framework and principles to be considered good examples of a created 'modern commons'

SAMUDRA Report has featured many articles about the origins and functioning of the Community Fisheries (CFi) organizations of Cambodia (see 'For more' below). This article focuses on a recent scoping study, undertaken in August 2015, which sought to ascertain if the CFi in Cambodia have the essential characteristics and attributes necessary to be considered organizations that are utilizing and governing riparian 'commons'.

What are 'commons'? To arrive at an answer to this question, we will need to first have an understanding of what constitutes a 'commons'. The first matter in this regard is to do away with the connotation of 'commons' as being some archaic form of tenure which was prevalent in Europe in medieval times, pertaining to agriculture and livestock activities of poor peasants which was usurped by feudal lords through what came to be known as the 'enclosure movement' to create forms of private property.

The other, more recent, academic association of 'commons' is with the much-quoted article written by Garrett Hardin in 1968 titled *The Tragedy of the Commons*. In it, Hardin considers the 'commons' to be a form of tenure where access to the resources therein is 'open to all' and thus inevitably leads to its depletion or destruction.

The historic association of commons being merely a form of tenure of ancient times, and the association of commons as a form of tenure which permits access to all, are both incorrect.

So what then do we mean or understand today when referring to a 'commons'? Is it about the nature of

particular things or resources—such as fish in the sea, forests, public parks, urban residential complexes, the telecommunication spectrum, outer space, Antarctica, and so forth? Is it about the way human governance of these resources/realms should be organized—for example, by a like-minded group, a neighbourhood community or a committee of interested nations?

In our understanding, commons, while they are about certain resources and ways of governance, are more appropriately visualized as the intrinsic combination of (i) a resource, (ii) a community utilizing it and

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(iii) a set of social rules and norms regarding use, misuse and management.

Principles of the Commons

There have been a whole series of investigations and a large body of analysis regarding the different types of commons, which, even today, function very successfully in various places around the world. The concept of 'commons' is also making headway into new realms such as software development, academic publications, music and the like.

One name which stands out when we refer to modern-day commons is that of the late Elinor Ostrom, the only woman Nobel Laureate in Economics. Ostrom spent a lifetime showing that

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BOX :

OSTROM'S EIGHT PRINCIPLES FOUND IN WELL-FUNCTIONING COMMONS

1. Clearly defined group boundaries.
2. Rules governing use of common goods matching with local needs and conditions.
3. Those affected by the rules can participate in modifying the rules.
4. Rule-making rights of community members are respected by outside authorities.
5. A system is available, developed and carried out by community members, for monitoring members' behaviour.
6. Graduated sanctions are used for rule violators.
7. Accessible, low-cost means for dispute resolution are made available.
8. Responsibility for governing the common resource in nested tiers is built up from the lowest level up to the entire interconnected system.

when it comes to the managing of natural resources, there are tenure options between State ownership and management on the one hand, and market-oriented, privatized ownership on the other. It was her mission to valorize the examples around the world where groups of people and cogent communities organized themselves to effectively and efficiently manage common resources sustainably.

From the thousands of examples, Ostrom developed several organizing principles which lie at the heart of successful commons (see Box).

Principles of the Commons and Community Fisheries

In order to ascertain if Cambodia's CFI qualify as an example of a 'modern commons', we conducted both structured interviews using a questionnaire, and non-structured conversations with representatives from thirteen CFI across the country. We tried to ascertain from them which principles of the commons were present in their organization and which were absent. This sample was not selected on the basis of any planned, purposive, stratified or scientific random manner. Therefore, there is no claim to a *priori* representativeness of the sample.

On completion of the interviews, we requested two key functionaries of the Fisheries Administration to use their intimate knowledge of the history of each of these CFI to assess and arrange the thirteen according to their overall performance.

The key criteria they used to make this grouping were:

- well-recognized functioning of CFI Committees,
- active member participation in activities such as conservation, use of resources for livelihood alternatives, mobilization of savings and funds,
- the involvement of women, and
- good feedback about the CFI from the concerned Provincial Fishery Officers.

Among the thirteen organizations, only three were considered to be well-functioning and three were considered to be poorly functioning, with the remaining seven lying on the spectrum in between.

Here are our findings:

(a) Boundaries

On the issue of clear demarcation of boundaries, we note that all thirteen CFIs have attended to this task; eight of them have put up markers and nine have official maps. Variations exist with regard to the extent of awareness among the members about the boundaries. Only two claim that all their members are aware of the boundaries. It is interesting to note that these are the two CFI with the smallest area (115 and 337 ha) in our sample.

(b) Rule Making

Nine of the CFI claim that they have devised new rules primarily with regard to the procedures and norms (how to do, how to share the benefits, and so on) for activities which will have a bearing on the social and economic aspects of the members.

All of them state that the rules match local needs and conditions. This rule making is often premised on local, customary practices which are socially negotiated and may not be formalized in any written form.

(c) Participation in Rule Making

In the current context, these internal rules are usually made primarily by the CFi Committee, sometimes with the participation of a few active members. For example, rules on dealing with illegal fishing would be made with the participation of members of the patrolling groups. Among the nine CFi which have devised new rules, only two say that all their members were involved in the process. In seven of them it was the Committee and a few members who were actively involved.

Making rules is the easier task; getting members to follow them is more difficult. In four of the nine CFi it is claimed that 'most' of the members follow the new rules as well as the existing CFi rules. In three it is said that 'some' follow the rules. Only two of the well-functioning CFi make the

claim that 'all' members follow the new rules made.

(d) Respect for Rule Making

The extent to which outsiders (non-members) respect the rules is a good measure of the respect and the standing which a CFi has in the larger society. Six of the nine which made rules claim that most of the outsiders respect these rules. Presumably, this relates to rules which affect the outsiders too—such as boundaries and issues relating to illegal fishing. Four of them state that only a 'few' outsiders respect these rules.

(e) Monitoring Behaviour

In eleven of the CFi, there is a system for monitoring the behaviour of members. Much of this relates to the issue of illegal fishing. It is the Committee, along with members of the patrolling groups, who are involved in the monitoring, control and surveillance (MCS) activities. In one—the smallest in terms of membership (108) and area (115 ha)—all the members are involved in MCS activities.

NYROTUM



Family-scale fishing in Community Fisheries, Cambodia. For CFi which are largely 'empty shell commons' to become 'lively commons' requires greater stimulation of the self-organization process among the membership

(f) Sanctions for Rule Breaking

In all except the three poorly functioning CFi, there are well laid out, graded sanctions for rule breaking. Again, these are rules relating primarily to illegal fishing.

Initially a person who is apprehended for illegal fishing is given advice about the ill effects of what he is doing, and requested not to continue such activities. He is made to sign an undertaking with the CFi to that effect. A second offence attracts a fine and possibly confiscation/ destruction of the gear used. The third

The fact that illegal activity is so pervasive makes the potential for conflicts a permanent feature of the system.

offence is reported with details to the provincial Fisheries Administration and the local law-enforcing authorities who will take their own course of action. The fourth offence attracts arrest by the police or military, on the advice of the Fisheries Administration, and the offender has to appear before a court. Some fisheries officers have been conferred the power to issue warrants for arrest.

Of the ten CFi that claimed to have graded sanctions, only eight state that implementation is effective. This only implies that action is being taken according to the laid out procedures and norms. In most cases, this does not imply that the problem gets solved—particularly with regard to illegal fishing.

(g) Systems of Conflict Resolution

That conflict is common and perhaps endemic in this dynamic land–water ecosystem is acknowledged by all the thirteen CFi. The fact that illegal activity is so pervasive makes the potential for conflicts a permanent feature of the system. However, conflicts are not restricted to issues of illegal fishing alone.

Since members are dealing with several other resources in their

designated area—for example, the flooded rice-growing area, the flooded forests—differential and competing claims over the various common-pool resources are inevitable. There are also conflicts which arise among members on a variety of organizational issues. The presence of conflict in a commons is, therefore, not a matter of surprise.

We also note that seven of the CFi state that conflicts are settled quickly and effectively. Speed is of the essence in conflict resolution, as also negotiations, mediation and efforts to arrive at a consensus without leaving a victor and the vanquished.

Many of the CFi report that when their Committees deal with conflict among members, they call for a meeting in a common area (the office or the pagoda) and hold a dialogue in the presence of local village leaders, and make efforts to counsel the parties concerned, examine the consequences of the conflict, while also going into the causative roots. Illegal fishing by members because of their poverty or sudden household needs is a case in point.

(h) Nested System of Coordination

The management of resources in the CFi is clearly not merely a local issue which can be restricted within their boundary. Where CFi organizations exist in close proximity, the actions/inactions of one clearly affect the other though there may be a time lag before the ill effects (externalities) become evident. Co-operation and co-ordination are evidently required to minimise this.

It is interesting to note that on this issue of the need for co-ordination, there was perfect agreement among all the thirteen CFi in our study.

Currently, the co-ordination is done by the provincial Fisheries Administration. However, this is largely and essentially on a one-to-one basis between a particular CFi and the administration. There is little co-ordination amongst the various CFi organizations although the Sub-Decree of Community Fisheries allows it. All thirteen CFi in the study

agree that far greater co-ordination is needed amongst them.

Not by Principles Alone

Having completed the assessment, in overall conclusion we may say that in the majority of the CFI (10 out of 13) most of the Ostrom principles are present. If we consider the three CFI that were designated as 'well-functioning', they exhibit positive indicators of all the principles, whereas the three 'poorly functioning' ones lack many of the indicators of the eight principles.

Prima facie, given the data available, we may conclude that the CFI of Cambodia possess the basic framework and principles of functioning to be considered good examples of a created 'modern commons'. However, as Peter Linebaugh, one of the important historians and current proponents of commons initiatives points out: "There is no commons without commoning"! 'Commoning' may be considered the participative social attribute of activities and enthusiastic work/labour on the part of the commoners (the members) in making the commons really work. This is what differentiates a commons from other sorts of institutions.

In our sample, we find a fair degree of commoning only in the three well-functioning CFI. In the case of the remaining ten, they merely function as officially constituted organizations with their elected Committees, with the members, to varying degrees, being involved in some sort of patrolling activities to protect their designated common areas from illegal fishing.

Consequently, an organization which may have all (or most of) the principles ascribable to a 'commons institution' need not necessarily be functioning as a 'lively commons'. It can remain as an 'empty shell commons'. For CFI which are largely 'empty shell commons' to become 'lively commons' requires greater stimulation of the self-organization process among the membership. In many, the Committee, and the

members, in their turn, keep waiting for the Fisheries Administration, an NGO or other development partners to assist them. There is not much initiative on the part of the Committee to enthuse the membership to take forward any meaningful, collective and beneficial actions using the natural resources which are available to them in their designated areas. In most cases, the members are satisfied with the individual freedom which they have obtained to fish freely all year round using legal small-scale fishing gear.

Therefore, providing the legal framework and governmental support which give a community the right to create a commons is not adequate to make it 'lively'. The commoners involved must also enthusiastically engage in defending those rights and translate them into actionable agenda points for conserving the natural resources and utilizing them for enhancing their livelihood options. Such priorities require astute, energetic and accountable leadership; creating trust among the commoners; forging voluntary collective action to defend the commons; and devising creative strategies to maximize and fairly distribute the material blessings from the commons.

Many of the 500-plus CFI in Cambodia have risen to become sterling examples of well-managed commons. We encountered three in our small sample. However, these are still the exceptions rather than the rule.

Clearly, framework and principles alone are not adequate to give 'life' to an organization. A 'lively commons' is the result of the community of members taking full cognizance of their rights and responsibilities and participating fully in 'commoning'.

On this score, the CFI organisations of Cambodia have a long, arduous voyage ahead. For this, they require technical support from the fisheries administration; financial support from development partners and moral support from civil society. 3

For more



icsf.net/en/samudra/detail/EN/328.html?detpag=mapart

Fishing disarmed: Cambodia: Community fisheries SAMUDRA Report 31, March 2002

icsf.net/en/samudra/detail/EN/3104.html?detpag=mapart

Shocking reality: Cambodia: Electro-fishing SAMUDRA Report 48, November 2007

icsf.net/en/samudra/detail/EN/3795.html?detpag=mapart

A community future: Cambodia SAMUDRA Report 63, November 2012

icsf.net/en/samudra/detail/EN/4168.html?detpag=mapart

Coming together to fish: Cambodia SAMUDRA Report 71, August 2015