



# Analysing the legal framework of marine living resources management in Bangladesh: Towards achieving Sustainable Development Goal 14



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## ABSTRACT

This study was conducted to investigate how the legal framework governing the Bangladeshi fishery sector can be reformed through measures such as governance reform, increasing coordination between administrative bodies and educating key stakeholders, including fishermen. In doing so, this paper evaluates how Bangladeshi fishery laws can facilitate sustainable development and improved environmental outcomes for coastal and marine living resources. This study also examined how non-compliance with the legal framework could negatively affect government initiatives to achieve Sustainable Development Goals, particularly SDG 14. To collect empirical data, fieldwork was conducted at two sites in the coastal zone of Bangladesh and was supplemented by a review of the secondary literature on legal documents. The key findings show that despite the strong existing legal mechanisms, non-compliance with regulations is widespread and has resulted in severe degradation of coastal and marine living resources. Thus, the unsustainable exploitation of resources is restricting the ability to achieve the targets of SDG 14, such as eliminating IUU fishing and providing access to small-scale fisheries. After examining the issues that cause non-compliance, this study provides guidelines for the development and effective implementation of legal and policy frameworks to ensure sustainable coastal and marine living resource management in Bangladesh.

## 1. Introduction

Bangladesh has a maritime zone of 118,813 sq. km in the Bay of Bengal (BoB) [1], including the 200-nautical mile (nm) Exclusive Economic Zone (EEZ) and 354 nm of continental shelf [2]. Despite the large number of marine fish species (511, including shrimp) [3], the contribution of marine fisheries to the total national catch is quite low. For example, in 2014–15, only 16.28% of the total national fish production was of marine origin [4]. Nevertheless, the coastal and marine fishery sector is very important as it provides livelihood opportunities to millions of poor coastal people, and contributes to national food and nutrition security [5,6].

This sector faces several challenges. The marine fisheries of Bangladesh are vulnerable to collapse because the catch per unit fishing is decreasing due to declining fish and shrimp stocks [7]. The major drivers of coastal and marine resource degradation include non-compliance with fishing rules and regulations by the stakeholders by applying increased fishing pressure, including the use of destructive fishing methods and gears [8–10]. A tendency to fish for whatever is available, including larvae and juveniles, is also a common practice. Therefore, it is necessary to ensure a sustainable catch from the sea;

thus, it is important to amend the existing laws and ensure their proper implementation.

There is no individual act on coastal fisheries; rather, it is controlled by general national fishery laws, rules, and policies. The national laws provide guidelines for the conservation, management, and development of marine fisheries resources. Bangladesh has also agreed, endorsed or ratified a number of legal and policy frameworks. These frameworks include different conventions, declarations, and agreements covering international marine and coastal environmental sectors, including the 1982 Law of the Sea Convention (LOSC); United Nations Conference on Environment and Development (UNCED); International Maritime Organization conventions (IMO); and the Convention on Biological Diversity (CBD).

The present analysis focuses only on the national legal framework of Bangladesh. There are numerous laws and regulations that provide policy and regulatory frameworks for the management of marine living resources. These laws are, however, not enforced properly for multiple reasons. The immediate consequences of this non-compliance include the degradation of fisheries' resources (through destructive fishing practices) and reduced human well-being (fishers face persecution and penalties for the violation of laws and regulations) [6]. Therefore, a

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sound management system is necessary to measure the extent and patterns of non-compliance and to explore ways to secure compliance. This is emphasized in the Sustainable Development Goals (SDGs) to be attained by 2030. The SDGs specifically target effective regulation of harvesting, including elimination of overfishing, illegal, unreported and unregulated (IUU) fishing and destructive fishing practices. The implementation of science-based management plans will be crucial step in the attainment of these goals. Therefore, the formulation of a proper legal and policy framework for the utilization and conservation of living resources in its marine waters is indispensable. Thus, identifying the knowledge gaps in fishery regulations and fishers' responses to regulation is also necessary.

The present study is a contribution to filling these knowledge gaps. The purpose is to assess how the legal framework governing the Bangladeshi fishery sector can be improved through measures such as governance reform, increasing coordination between administrative bodies and education of key stakeholders, including fishermen. In doing so, this paper evaluates how Bangladeshi fishery laws can facilitate sustainable development and improve environmental outcomes for coastal areas.

The following section reviews the international literature to build a theoretical framework on the role of the legal framework for fishery management and its links to achieving Sustainable Development Goals. The methodology section discusses data sources, methods of data collection and data analysis, the selection of interviewees and selection of questions for semi-structured interviews. The next section presents the results of the assessment of legal frameworks and the respondents' perceptions regarding reforming the fisheries' legal framework. The discussion section then follows, and the paper concludes with final remarks regarding policy implications.

## 2. The role of legal frameworks in fisheries management

During the last century, a new understanding of how human behaviour created adverse environmental effects has developed. This information has challenged the efficacy of existing legal frameworks in addressing the sustainability issues of the environment. Environmental law has evolved into a specialized field of law, in which hundreds of national regulations in many countries, as well as international environmental treaties, were created only in the last half century [11]. However, many of these legal regulations have failed to provide adequate protection for the environment and failed to create conditions that promote sustainable utilization of common-pool resources [12]. Nevertheless, the legal framework is instrumental in the management of natural resources. Legal rules provide rights, obligations, and responsibilities for the communities involved. These also define what is permitted, who has the power to do what, and the consequences of different acts, omissions, and situations. Moreover, in large-scale situations and transboundary contexts, legal structures are also crucial for determining who may make binding decisions on the content and application of general norms in different jurisdictions.

The laws also provide legitimacy for the decision-making power of communities in community-based resource management. In addition to regulating the natural system, legal frameworks also address, for example, social security and unemployment, education, and property rights [11]. Among Ostrom's (2005) eight principles for governing common pool resources, rules governing use of common goods should be matched with local needs and conditions [12]. Those affected by the rules should participate in modifying the rules. The authorities should respect the rule-making rights of community members and, where appropriate, graduated sanctions should be applied to rule violators. Ostrom's eight principles clearly reflect the importance of community participation in making legal rules. Additionally, stakeholders within communities should be consulted with and respected during rule making for any conservation initiatives. Thus, communities can deliver their opinions by providing their perception of legal frameworks that

have a direct bearing on them and the resources on which they depend for their livelihoods.

The sustainability of social and ecological systems can only be ensured with proper maintenance of the environment and its social dimensions, including social security, unemployment, education, and property rights. Shotton (1999) provides a complete discussion of property rights issues and regulation in fisheries, including why ITQs are often resisted despite their many benefits [13]. Traditionally, in the case of fishery management, legal frameworks are enacted to control harmful activities in the environment. These include gear regulations, such as the prevention of the use of nets with small mesh and certain types of trawls; restrictions applied to large, powerful types of fishing vessel; and closed fishing seasons which are commonly used [13]. The legal framework that includes laws, rules, regulations, ordinances and other instruments provides legitimacy to certain fisheries and coastal management measures [14]. These provide a buttress to the sustainable implementation of integrated coastal management programs towards achieving success. It is found that legal compliance is key to the success of coastal zone management interventions, particularly the establishment of marine protected areas [14,15]. Where non-compliance happens, understanding the key problems can provide a basis for establishing a legal framework to improve the management of coastal and marine resources [16].

## 3. Methodology

The study was informed by both primary and secondary data. The primary data were obtained through qualitative data collection methods, which included individual interviews, key informant interviews, and stakeholder analyses for the period from May 2016 to July 2016. The study was conducted among the fishing communities in two coastal and marine fishery hotspots of Bangladesh: the Chittagong and Barisal districts (Fig. 1). Using a semi-structured questionnaire, a total of 130 individual interviews were conducted with fishers, skippers on the fishing team and fish trade entrepreneurs (locally known as *mohajan/aradhar*). The interviewees were selected through convenient sampling. The semi-structured questionnaire included questions including legal issues, management concerns, marine fisheries' resource extraction, marketing, and implementation of fishery legislation. Fifteen government officials from different tiers of the Department of Fisheries (DoF) were interviewed as key informants. Four knowledgeable skipper fishers (*majhi*) and five fish traders were also interviewed as key informants. The interviewees included a range of stakeholders, thus providing different perspectives on the main issues of the present research. Secondary data on government legislation and policy documents, ministerial orders, and gazettes were collected through an online search or personal contact with relevant agencies.

A content analysis was employed for the data analysis [18–20]. A content analysis is a scientific research tool that interprets and codes different communicated material (e.g., documents, articles, books, voices, interviews, and images) through classification, tabulation, and evaluation of its key themes to ascertain its meaning and probable effect.<sup>1</sup> It provides new insights, thus enhancing a researcher's understanding of particular phenomena as well as informing practical measures [18]. In the present study, textual materials were coded into manageable categories of different variables [6,21]. The variables identified included causes of non-compliance with laws, gaps between the laws and their implementation and suggestions for improvement.

<sup>1</sup> Webster's Dictionary of the English Language.

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