

HEN MPOANO INITIATIVE
REPORT ON JUDICIAL PARTNERS TRAINING WORKSHOP



Theme: “Towards Efficient Prosecution of Fisheries Violations in the Western Region”

By: Friends of the Nation & Coastal Resources Centre

March 15-17, 2011

Western Naval Command Headquarters, Sekondi

List of Abbreviations & Acronyms

| | |
|-------|--|
| AG | Attorney General |
| CSO | Civil Society Organization |
| CRC | Coastal Resources Centre-Ghana |
| EPA | Environmental Protection Agency |
| FoN | Friends of the Nation |
| FiC | Fisheries Commission |
| ICFG | Integrated Coastal and Fisheries Governance |
| LI | Legislative Instrument |
| MCS | Monitoring Control & Surveillance |
| Q&A | Questions and Answers |
| RCC | Regional Coordinating Council |
| USAID | United States Agency for International Development |
| USA | United States of America |
| WR | Western Region |

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1.0 Introduction and Background

This report is the output of a three-day training workshop conducted for judicial partners towards efficient prosecution of fisheries violations in the Western Region. The training workshop was held from March 15-17, 2011 at the Western Naval Command Headquarters, Sekondi.

The report summarizes objectives of the training program, methods of delivery, detailed session delivery, way forward, and conclusion. **The Programme outline is attached as appendix A.**

In all twenty-five (25) participants attended the meeting. Participants were mainly drawn from the following stakeholder group: Circuit court judges, State Attorneys-RCC, Judicial Department-Regional Police, Fisheries Commission, Western Naval Command and EPA. **The detailed list of participants with their location and contact details can be found in appendix B.**

1.1 Workshop Objectives

The main objective of the training program was:

The prosecution of fisheries violations in the Western Region of Ghana is both effectively and efficiently completed through a team approach among various institutions and shared responsibility.

1.2 Methods Used

The facilitators used a combination of methodologies that enhanced effective impact and transfer of competence and skills. This elicited inputs and promoted sharing of experiences among participants throughout the sessions. The structure used to deliver the sessions included interactive presentations, brainstorming, discussion and questions & answers (Q&A).

An open forum was created for participants to come out wide range of perspectives and analysis on the issues that emerged from the presentations.

1.3 Participants' expectation

Generally, participants expectations centered on the under listed:

- Effective collaboration among stakeholders
- Overcome challenges in the prosecution of fisheries cases
- Efficient handling of cases of violation of the fisheries laws and regulations
- Establish good communication among stakeholders
- Identify and know the roles and responsibilities of agencies and institutions involved in fisheries enforcement

- Acquire an insight into the Fisheries Regulation
- Be acquainted with the system for preparing prosecution
- Fast track prosecution of fisheries cases
- Evidence gathering in prosecution of cases

2.0 DAY ONE

2.1 Detailed Session Delivery

2.2 Opening Session: Introductory Remark

In his opening remarks, Donkris Mevuta, Executive Director of FoN indicated that the purpose of the training was to discuss and share information on better ways of creating synergies among the Judiciary, Navy, Police, Fisheries Commission and other stakeholders so that cases involving fishing crews apprehended for violating the fisheries laws are correctly prepared within shorter time-frames and successfully brought before the court and adequately and fairly prosecuted according to law.

He added that the training will cover the fisheries laws and also the ecological justification for the conservation of marine biodiversity to ensure livelihoods security for the majority of the coastal population highly dependent on the fisheries resources. He therefore urged participants for maximum participation to ensure a successful workshop.

2.3 Presentations

2.3.1 Introduction of Hen Mpoano Initiative

This presentation was delivered by Mark Fenn, Program Director of CRC. In his presentation he explained majority of the Ghanaian population live within the coastal zone and derive their livelihood, food security, and way-of-life from coastal resources. He said fish is recognized as the most important source of animal protein in Ghana and it is estimated that 10% of the population directly or indirectly rely on the fishing sector. However, fish stocks are in serious decline and critical habitat is being lost. In short, the fisheries sector in Ghana is approaching crisis, and the Integrated Coastal and Fisheries Governance Initiative (ICFG) now known as the *“Hen Mpoano”* initiative is being implemented to contribute to achieving key results in the reform of Ghana’s coastal and fisheries sectors.

He explained the initiative is being implemented as pilot in the western region of Ghana and is funded by USAID and implemented by Coastal Resource Center (CRC), World Fish Centre (WF), SustainaMetrix (SM) and Friends of the Nation (FoN). Among the expected output of the initiative include strengthened capacity of institutions to improve policies, actions and

development; improved managed fisheries and improved socio-economic well-being of coastal communities through diversification of livelihood.

Mark Fenn added that the initiative will look at biodiversity issues in its three focal areas (Shama District, Cape Three Points and Amanzuri) which are important areas for fisheries management. Also are the issues of climate change, coastal habitats and wetlands.

In concluding his presentataion, he reiterated that the Hen Mpoano Initiative believes the fisheries regulations will help restore the country's fish stock and believes voluntary compliance is the first steps to achieving enforcement of the fisheries regulation and called for the support of all participants to make this achievable

2.3.2 Fisheries Sector Review in the WR

Kofi Agbogah of CRC led discussions on this topic. The discussions centered on the importance of fisheries as a resource, fishery crisis, management of fisheries in both centralized and decentralized management. Key concerns noted by the facilitator that is contributing to a fishery crisis included rise in fishing effort, inappropriate fishing methods gaining legitimacy among fishers and weak enforcement. He ended his presentation by calling on participants to think through the under listed questions so that a roadmap to the LI would be achieved at the end of the three day training workshop.

- How can we move from open Access to Managed Access
- How can we start enforcing the Law before Another Election Year

Details of the presentation are found in appendix C.

2.3.3 Reality Check on Fishing in the Communities (Blame Game)

This session laid emphasis on echoes from the fishing communities. This included transformation of gear types, fishing as a traditional livelihood to a business venture, the blame game exhibited by fishermen and the fishing industry, governance, limited knowledge of the LI and lack of understanding of CSOs role. Kyei Kwadwo Yamoah of FoN was the lead facilitator. **See appendix D for details**



2.4 Comments and Recommendations

- In a situation where a fishing vessel is arrested by the Western Naval Command for using prohibited methods of fishing, for instance undersized fishing net, meanwhile during investigations a prosecutor from the Ghana Police explains to the judge the net is not undersize conflicting with the fisheries officer position of the net being undersize makes the work of the judge difficult.
- Participants and other stakeholders must be given the necessary trainings, documents, materials, tools and equipment necessary to enhance their work as professionals during investigations of such sort. This is because majority of investigators and prosecutors do not have enough training on the fisheries law. This could result in fisheries cases avoided or left unattended to due to fear of exposure of their incompetence as a result of the ignorance of the fisheries laws.
- A call was made by a participant for more sensitization, awareness raising and educational campaigns on the Fisheries Regulation, 2010 to fisher folks since ignorance of the law is no excuse.
- A suggestion was made for FiC technical officers to be trained as prosecutors since they have in depth knowledge of the LI.(e.g. EPA,SNNIT have staff trained as prosecutors to handle institutional cases)

Questions and responses

- In a case where a naval officer together with a fisheries officer arrest a fisherman at sea with a switch board,cables,a generator without a bulb(probably thrown into the sea) can the fisherman be charged for using light for fishing? Yes.
- Can a bulb of light intensity not up to 500watts be used in fishing? (Refer section 11 of Fisheries Regulation, 2010).

2.5 DAY TWO

The meeting started with an opening statement by Donkris Mevuta recapping the issues of day one and took participants through the program of day two.

2.5.1 Presentation one: Fisheries Violations in Ghana

Mr. George Hutchful gave a presentation on the experience of violation of laws and cases in the past. He said FiC has not done the right thing in the past. For example if a vessel is arrested and there is an out of court settlement, no representatives from the Attorney's General's Office were invited. He further said that if a vessel is sighted for an offence, a charge sheet must be prepared by the arresting officer to detail the nature of the offence so that the case can be processed.



Questions/Comments

1. If a charge sheet has to be prepared by the arresting officer how should it be done?
2. A letter must be presented by the offender requesting for an out of court settlement admitting he has committed the offence. This letter is sent to the settlement committee made up of Attorney General's representatives, FiC, Navy, Police, etc and the committee must agree for an out of court settlement before the case is settled.
3. If an offence is to be sent to court there is no need to prepare a formal charge sheet.
4. If an arrest is made of a vessel and it has on-board illegal nets and the vessel owner appeals in court for release of items should the vessel together with the prohibited nets be released to the vessel owner?
5. If the Navy arrests a vessel the case must be submitted to the police, the FiC and the AG's office.

Participants discussed section 88 of the Fisheries Act, Act 625, 2002 and debated on provisions of violations of the law and how it could be processed. The following are some comments and suggestions that evolved:

- The AG must enlighten/expose the court on the critical and actual situations on the ground in fisheries cases to enable the court give appropriate judgments.
- Comprehensive documentation/preparation of the cases
- Preparation of dockets must contain all details of what constitute illegal fishing methods.

2.5.2 Presentation two: Challenges and Experiences of the Navy in MCS

Lieutenant Keith Nkrumah, Commanding Officer GNS David Hansen of the Western Naval Command was the lead discussant. His presentation highlighted on challenges and experiences during their Monitoring, Control and surveillance operations at sea.

He indicated that among the several responsibilities of the Western Naval Command is the protection of the fisheries resource of the country. He expressed the focus however has been on the inshore fisheries because of lack of larger vessels for the monitoring operations of Industrial (tuna) vessels.



Key challenges noted by the facilitator included:

- Inadequate naval personnel and equipments
- Ignorance of the law (Fisheries Regulation, 2010.LI.1968) portrayed by arrested fishermen. He explained that some fishermen do not know most part of the laws so they could not comply. He expressed that the FiC should be more proactive to carry out intensive education and sensitization on the fisheries laws in fishing communities to encourage voluntary compliance of the laws.
- Fear of arrest depicted by fishermen at the sight of naval officers at sea causes them to jump into the deep seas to escape arrest. This behavior by fishermen divert naval officers mission at sea to save lives instead of arresting defaulting fishermen.
- Unwillingness on the part of arrested fishermen to surrender their boat. These results in towing of boats to the harbor since the fishermen normally say the engines are out of work during arrest. Sometimes the towing ropes are cut and they bolt away.
- Non prosecution of cases of arrested fishermen dampens moral of naval officers who risk their lives on the deep seas.
- Political influence
- Intrusion of Chinese vessels

Lieutenant Keith Nkrumah therefore craved the indulgence of all participants to help fast track the prosecution of arrested fishermen anytime such cases are brought before them.

Commander's Comments:

Captain (GN) Kofi Ankamah, Command Operations Officer of the Western Naval Command explained that MCS is self sustaining if managed well and expressed that MCS efforts could be localized at the landing beaches to avoid the high expenditure of navy patrols. He argues that the prosecution system is weak and therefore most arrest made by the navy is not prosecuted. He complained that 14 fishing vessels were arrested by the navy for illegal fishing and after transferring the case to the FiC and the police the vessels were released so this and many similar cases discourages the navy to arrest fishermen.

He expressed his outfit readiness to partner with all participants especially the Fisheries Commission to come out with better programs that will help combat the situation presently. He said the use of unsustainable fishing method by fishermen will not help restore the fisheries stock of the country hence the time to act is now.

2.5.3 Open Forum: Roadmap to the LI.

Participants discussed the regulations (Fisheries Regulation 2010& Fisheries Act 625).Some of the areas discussed extensively was the section that deals with prohibitive fishing methods; light fishing (sec 11), transshipment (sec 33), dumping of fish (sec 32), obnoxious chemicals (sec 11), etc. Constraints in the prosecution chain such as arrest procedures, preparation of dockets, influences and punishments were also thoroughly discussed among participants.

The under listed measures were agreed upon after the discussions:

- The Naval Command does arrest
- FiC compose statements
- Statements made available to the Ghana Police Service(prosecutors)
- Police prosecutors present case to the AGs office for onward presentation to court

Comments/Questions

- By law there is a procedure in taking statements from an offender
- Caution statements are taken in the presence of an independent witness
- The master/in-charge of the boat writes the statement
- A police officer must be present during inspection of exhibits by the naval officers and the FiC after an arrest has been made
- Always have a dialogue with a prosecutor for direction before presenting evidence in court.

- At the issuance of an order of release by a law court, a vessel must be released without the prohibited exhibits/confiscated materials
- At what point during an arrest does an offender make a statement?
- What is the first point of contact when an arrest is made?
- Who keep charge of exhibits during an arrest? The Police/Navy?

Answers;

- The first point of contact when an arrest is made is the charge office/Complaints Unit.
- Normally the Police keep the exhibits because it would be tendered in court as evidence; however, if the exhibits are not portable it could be left at the naval base under safety by the officers. Nevertheless the custody of evidence could be decided between the Police and the naval officers.

2.6 Conclusion

In his closing remarks, Donkris Mevuta expressed appreciation to participants for their time and contributions in making the training a success.

ANNEXES

JUDICIAL PARTNERS TRAINING WORKSHOP PARTICIPANT ROSTER INFORMATION

| NO | FIRST NAME | SUR NAME | ORGANIZATION/LOCATION | E-MAIL IF AVAILABLE | PHONE NO |
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Judicial Partners Training
“Towards Efficient Prosecution of Fisheries Violations in the Western Region”
March 15 – 17, 2011
Western Naval Command Headquarters, Sekondi

Participants:

Circuit Court Judges - Takoradi
State Attorneys – RCC WR
Judicial Department – Regional Police WR
Fisheries Commission – WR
Western Naval Command – WR
CRC/FoN
EPA – WR

Objective of the training program:

“The prosecution of fisheries violations in the Western Region of Ghana is both effectively and efficiently completed through a team approach among various institutions and shared responsibility”.

PROPOSED AGENDA

Tuesday March 15th 2:00 – 4:30 pm

Introductions and Discussion of Program
Short presentations and discussion on:
Introduction to the Hen Mpoano Program
Fisheries Sector Review in the WR
Roadmap to the LI
Reality Check on Fishing in the Communities
Illegal, Unregulated and Uncontrolled Fishing in the World

Donkris Mevuta FoN

Mark Fenn – CRC
Kofi Agbogah – CRC
George Hutchful – CRC
Kyei Yamoah – FoN
Kofi Agbogah – CRC

Wednesday March 16th 2:00 pm

Presentation and discussion of Regulations
Constraints in the Prosecution Chain
-arrest procedures

George Hutchful – CRC
Setor Avoke – MCS/FC

- preparation of dockets
- influences
- punishments

Experiences of the NAVY with MCS

WR Naval Command

Thursday March 17th 2:00 pm

Strengthening Prosecution through Teamwork and Roles
Monitoring and Tracking Violations
Subsequent Meetings
Discussion on Evolution towards Environmental Courts

FoN to moderate