

## **When the Fish Warden sleeps, who will take charge? An inquiry on Alternative Fisheries Law Enforcement in Japan<sup>1</sup>**

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As an archipelago, Japan is endowed with access to vast fisheries resources. Supplementary to fish stocks available within national jurisdiction, the country is a major importer of fisheries products that are intended to meet domestic dietary demands. However, imports prove to be costly and the price of fish products in the local market is negatively affected. Thus, in order to ensure sustainable supply of resources particularly those under State jurisdiction, essential national laws have been enacted. A basic legislation is the 1949 Fisheries Law which defines the importance of fisheries rights complementary with resource management and conservation priorities. (This law is strengthened by the 2001 Basic Law on Fisheries Policy which directs the formulation of a Basic Plan to achieve fisheries sustainability and development.) It is noteworthy that the rights system and conservation priorities have been historically drawn and integrated into existing Japanese legislation and practices. It is from this condition that an alternative approach to enforcement of fisheries laws is manifest.

Law enforcement refers to the performance of certain activities that will achieve the purposes of a particular legislation. Traditionally, law enforcement of fisheries laws is centered with the State, that is, either it monopolizes action or engages in limited partnership with civil society groups, the latter condition is characterized with prominent State authority. Due to inherent political, legal, logistical and bureaucratic weaknesses of the traditional approach to law enforcement, the purposes of the law are roughly achieved. In this regard, effective alternative approaches are necessary, that is, self regulation through greater public participation. This approach is generally done in terms of either co-enforcement (civil society initiative with government support) or pure self-regulation (self-empowered civil society sole enforcement). In addition to individual empowerment, alternative fisheries law enforcement is more democratic due to greater stakeholder participation, wider social acceptability and higher public trust.

The fisheries cooperatives in Japan are a highly developed alternative approach of co-enforcement, which, at the same time, are rooted in the grassroots. This co-enforcement is defined in terms of the State (through the Prefecture) exercising regulatory powers along with the fishermen (through the fisheries cooperative) exercising their powers to manage fishing initiatives and operations. The latter's power is sourced from the Constitution which guarantees fundamental citizen rights. However, the realization of these rights as individual fishermen is difficult. Thus, subsequent special laws (Fisheries Law and Fisheries Cooperative Association Law) enable the fishermen to group themselves, guarantee them with personal and exclusive property rights, and authorize its exercise in a collective manner. The fisheries cooperatives,

as a collective, carry with them strengths that are fundamental for effective law enforcement, which include: possession of defined exclusive rights, participation in organization and decision making processes, understanding and acceptance of clear resource management goals, and access to information and social justice. Nonetheless, the fisheries cooperatives are faced with challenges to its continued existence: western influence to Japanese diet and consumption, public and stakeholder interest to fishery resource supply and management, technology-facilitated influx of non-conformist and deconstructive socio-economic perspectives, and the government resolution of organized illegal fishing. These challenges can affect the integrity of the fisheries laws and its enforcement.

#### Publication of the Results of Research Project:

Verbal Presentation (Date, Venue, Name of Conference, Title of Presentation, Presenter, etc.)

The results of the research are aimed for presentation at :

1. professorial chair lecture in the University of the Philippines Visayas sometime in July 2008;
2. international conference to be determined later.

N.B. Results have been included in classroom discussions.

Thesis (Name of Journal and its Date, Title and Author of Thesis, etc.)

The results of the research will be developed into a journal article aimed to be submitted for publication in the Marine Policy Journal. Target date of submission : October 2008.

Book (Publisher and Date of the Book, Title and Author of the Book, etc.)

Not applicable