

## **THE FISHERIES SECTOR IN GHANA: INSTITUTIONAL AND REGULATORY GAPS, CHALLENGES AND FUTURE PROSPECTS**

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### **ABSTRACT**

The fisheries sector in Ghana contributes significantly to its socio-economic development. The sector contributes about 4.5% of Ghana's Gross Domestic Product (GDP) and provides livelihood for an estimated 10% of the population.<sup>2</sup> The Ghanaian fishing fleet is made up of artisanal or canoe, inshore or semi-industrial, industrial trawler and tuna fleets,<sup>3</sup> all of which are regulated by the Fisheries Commission (FC). This paper examines the inherent institutional and procedural contradictions undermining the implementation of fishery law and policy in Ghana. The paper adopted a review approach by reviewing relevant literature including policies and legal documents, reports, journal articles, newspaper articles and interviews. The study reveals that contradictions undermining fisheries law implementation is due mainly to weak and inadequate enforcement, low compliance of fisheries laws, and inadequate institutional and human capacity.<sup>4</sup> The paper concluded that there is a lack of administrative and technical capacity, inadequate funding, and political influence during the prosecution of violators.<sup>5</sup> The paper recommended the need to increase funding for regulatory agencies, enhancement of human and institutional capacity, involvement of stakeholders in decision-making of fisheries management, continuous and effective collaboration with international donors, and between stakeholders.

**Keywords:** Regulatory Agencies, Gaps and Challenges, Fishery Sector, Institutional and Human Capacity, Funding, Ghana

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<sup>3</sup> Ibid.

<sup>4</sup> World Bank, 'Report on Ghana Country Environmental Analysis' (2020) p 100 <<http://documents1.worldbank.org/>> accessed 16 February 2023.

<sup>5</sup> W Akpalu and others, 'The Fisheries Sector in Ghana: A Political Economy Analysis' Draft Report World Bank (Washington D.C., 2018).

## INTRODUCTION

Ghana is a well-known fishery nation. The fishing industry contributes significantly to food security and nutrition, employment and household income, and foreign exchange earnings. Small-scale canoe fishing is critical to millions of individuals, families and communities.<sup>6</sup> In addition to making a significant contribution to agricultural GDP over the last decade, fishing generates more than half of non-traditional export earnings. Between 2014 and 2016, the average annual export revenue exceeded US\$14 million.<sup>7</sup> The fisheries sector accounts for 20% of the active labour force, almost 3 million people work in the fisheries sector of which 150,000 are canoe fishers, 30,000 are fish processors, and 2.7 million are involved in trade, transport, and sale.<sup>8</sup> However, the fishery sector of Ghana is beset with several problems, including, over exploitation and depleted stocks, due to fleet overcapacity, especially in the marine subsector; illegal, unreported and unregulated (IUU) fishing, which damages marine ecological systems and diminishes socioeconomic benefits; and climate change, due to alterations to marine ecosystem conditions like, ocean currents, temperature, upwelling, biochemistry and water salinity affect fish production;<sup>9</sup> and an underdeveloped aquaculture sector, in view of increase demand for fish products and decline in fish stock.<sup>10</sup>

The fishing and aquaculture sector is regulated by the Fisheries Act, 2002,<sup>11</sup> as amended in 2014; Fisheries Regulations, 2010,<sup>12</sup> as amended in 2015, and the National Premix Fuel Committee Regulations, 2016.<sup>13</sup> However, these laws are not being effectively implemented by the regulatory agencies nor adequately complied with by private-sector operators.<sup>14</sup> The regulatory and implementing agencies lack adequate human and institutional capacity, improved technology, equipment and political will to effectively support the enforcement of fisheries laws and regulations. This is due mainly to lack of the requisite personnel

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<sup>6</sup> Ghana Country Environmental Analysis (n 4) p 100.

<sup>7</sup> Based on data from MoFAD.

<sup>8</sup> Atta-Mills and others, 'The Decline of a Regional Fishing Nation: The Case of Ghana and West Africa' (2004) 28 *Natural Resources Forum* 13-21.

<sup>9</sup> Ghana Country Environmental Analysis (n 4) 100-101.

<sup>10</sup> *Strengthening Institutional Capacity to Enhance Governance of the Fisheries Sector in Africa*, p 4 <<https://www.au-ibar.org/au-ibar-projects/fish-gov>> accessed 17 February 2023.

<sup>11</sup> Fisheries Act 2002, (Act 625).

<sup>12</sup> Fisheries Regulations, 2010 (LI 1968).

<sup>13</sup> National Premix Fuel Committee Regulations, 2016 (LI 2233).

<sup>14</sup> Akpalu (n 5).

numbers, expertise in key areas and information; modern equipment and improved technology to ensure effective enforcement and regulation; slow adjudication of fisheries infractions by the Fisheries Enforcement Unit (FEU) and unreliable data collection.<sup>15</sup>

Against this background, this article will examine the inherent institutional and procedural contradictions undermining policy implementation in the fishery sector. Particularly, this article will examine key challenges, like political interference during prosecution for violators of fishery laws, and low fines for violators and out of court settlements that pose no deterrent to violators, and the extent to which these challenges undermine implementation of fishery laws, and make suggestions on how to better implement and fill gaps and overcome challenges in the fisheries sector of Ghana.

## **REGULATORY AGENCIES IN THE FISHERIES SECTOR**

The Ministry of Fisheries and Aquaculture Development (MoFAD) is the main institution with direct supervisory and oversight responsibilities over the fisheries sector. MoFAD was established by E.I. 1, Civil service (Ministries) Instrument 2013,<sup>16</sup> and is responsible for promoting a sustainable and thriving fisheries industry through research, technology, development, extension and other support services to fishers, processors and traders in the fulfilment of its role of ensuring food security and poverty reduction in Ghana.<sup>17</sup>

MoFAD has two agencies, FC established by the Fisheries Commission Act, 1993<sup>18</sup> and currently operates under the Fisheries Act;<sup>19</sup> and the National Premix Fuel Secretariat (NPFS) - which serves the National Premix Committee. The FC, is the implementing agency of MoFAD and is mandated by the Fisheries Act to regulate and manage fisheries resources and coordinate fishery policy formulated by MoFAD.<sup>20</sup> Specifically, the FC is to ensure that fisheries resources are exploited on a sustainable basis, settle disputes and conflicts among

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<sup>15</sup> Ghana Country Environmental Analysis (n 4) 107.

<sup>16</sup> Right to Information Manual, Ministry of Fisheries and Aquaculture Development (MoFAD) 2022 <<https://www.mofad.gov.gh>> accessed 26 February 2023.

<sup>17</sup> GA Sarpong, 'Ghanaian Environmental Law: International and National Perspectives' (Wildy, Simmonds & Hill Publishing 2018) 370.

<sup>18</sup> Fisheries Commission Act, 1993 (Act 457).

<sup>19</sup> Fisheries Act (n 11) s 1.

<sup>20</sup> *Ibid* s 2.

operators, advice the government on all matters related to fisheries, and advocate on issues to protect, promote and develop the fishing industry.<sup>21</sup> The FC has five operational Divisions – Marine Fisheries Management; Inland Fisheries Management; Fisheries Scientific Survey; Monitoring, Control, and Surveillance; Operations and Administration<sup>22</sup> – and four units – Fish Health; Monitoring and evaluation; Post Harvest; and Projects. The National Premix Committee (NPC) administers distribution of premix fuel for fishing vessels with significant fiscal support from the Government of Ghana (GoG).<sup>23</sup> The NPC uses Landing Beach Committees (LBCs) to permit fishermen to run local premix fuel stations; proceeds from premix fuel sale are aimed at development of surrounding fishing communities. Part of the NPC's mandate is to monitor fuel distribution and sale to avoid leakage and ensure appropriate use of funds.<sup>24</sup>

Despite the creation of these laudable agencies, the sector still lacks effective implementation of fishery laws and regulations. For example, the government subsidizes premix fuel used by artisanal fishers. The premix fuel administration has significant political influence, and members of the political party in power benefit from diverted fuel. Thus, the premix fuel subsidy has continued due to political expediency (to win votes of artisanal fishers) as well as financial gains to the political elites involved in fuel diversions to industries.<sup>25</sup>

The FEU, established by the Fisheries Act,<sup>26</sup> is responsible for monitoring, control, surveillance of fishing operations within Ghana's waters, and enforcement of regulations. The FEU includes personnel from the Ghana Navy, Ghana Air Force, and the FC, and it is assigned an attorney from the Ministry of Justice.

Other relevant agencies that engage in fisheries administration include: the Ministry of Environment, Science, Technology and Innovation (MESTI), through its implementing agency the Environmental Protection Agency (EPA) issues Environmental Impact

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<sup>21</sup> Sarpong (n 17) 371.

<sup>22</sup> Fisheries Act (n 11) s 15.

<sup>23</sup> J Tobey and others, *Subsidies in Ghana's Marine Artisanal Fisheries Sector*. USAID/Ghana Sustainable Fisheries Management Project (SFMP). Coastal resources Centre, Graduate School of Oceanography, University of Rhode Island (2014).

<sup>24</sup> Ghana Country Environmental Analysis (n 4) 106.

<sup>25</sup> Akpalu (n 5) p 4.

<sup>26</sup> The Fisheries Act (n 11) s 94.

Assessments (EIAs) for the fisheries sector; the Ministry of Trade ensures effective standards for food, drugs and medical devices, and advises the Ministry of Health on measures required for the protection of consumer health; Academic Institutions/Universities conduct research in collaboration with the FC and provides data to the FC, and disseminates research findings, recommendations and technology transfer; Fisheries Associations serve as a link between government, policy-making institutions and members of their associations, building member capacity, and ensuring self-regulation and voluntary compliance with fisheries legislation in Ghana and internationally; District-level Institutions enforce fisheries by-laws and regulations, resolve fishing related conflicts, and negotiates with government on subsidies to fishing inputs,<sup>27</sup> among other agencies.

In spite of the challenges the regulatory agencies face, particularly, MoFAD and FC, they have made some significant progress. The MoFAD has intensified sea and land patrols from 40 patrols in 2020 to 52 patrols in 2021, which represents 30% increase. Quayside inspections also increased marginally from 868 in 2020 to 880 in 2021, representing 1.4%. These operations resulted in 77 infraction cases, which are at various stages of prosecutions. The total number of Observer Missions carried out on board industrial vessels to monitor and report compliance with fisheries legislations at sea increased by 6% from 519 in 2020 to 550 in 2021.<sup>28</sup> Some of these observer missions, however, have resulted in the death of Ghanaian crew at sea. In July 2019, it was reported that, one Emmanuel Essien, a fishing observer assigned to the Menu Xin 15, a Chinese Vessel operating in Ghana, was missing at sea for about three weeks.<sup>29</sup> His Colleagues accused authorities of doing little to find their missing colleague, adding that, several of such complaints have not yielded any results.<sup>30</sup> They added that, “the Chinese maltreat us but our authorities are unconcerned”.<sup>31</sup>

A total of 84 fishing communities including Sedorm, Akosombo, Jomoro, Ellembelle, Kpong, Akateng, Dixcove, Akwidaa and Dzemeni were sensitized on Fisheries Laws and

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<sup>27</sup> Akpalu (n 5) 27-30.

<sup>28</sup> Ministry of Fisheries and Aquaculture Development, Medium Term Expenditure Framework (MTEF) For 2022-2025, p 5 <<https://mofep.gov.gh/sites/default/files/pbb-estimates/2022/2022-pbb-MoFAD.pdf>> accessed 24 February 2023.

<sup>29</sup> FCWC, Ghanaian Reported Missing From Chinese Fishing Vessel, July 27, 2019 <<https://fcwc-fish.org/other-news/ghanaian-reported-missing-from-chinese-fishing-vessel>> accessed 29 June 2023.

<sup>30</sup> Ibid

<sup>31</sup> Ibid.

Regulations to promote voluntary compliance by fisheries.<sup>32</sup> MoFAD has drafted a new Fisheries and Aquaculture Policy, awaiting stakeholder validation, which will pave way for drafting of the new Fisheries Act as part of a Fisheries Legal Review for the Sector. The new Act is expected to ensure flexibility in responding to emerging technical fisheries issues in a timely manner and improve the capacity of management to adapt to changes with the requisite legal authority to undertake its mandate.<sup>33</sup>

In addition, the MoFAD and the FC have carried out consultation and sensitization on Fisheries Co-Management Policy with other stakeholders such as fishers, traditional and opinion leaders, with the view to implementing the policy by MoFAD, to assist in the effective management of fisheries in Ghana.<sup>34</sup> The co-management strategy, when fully implemented, will protect the livelihoods of artisanal fishermen, conserve fish stocks and combat IUU fishing. The policy will give artisanal fishermen a greater voice in fisheries management decisions and promote voluntary compliance with fisheries regulations.<sup>35</sup> The Fisheries Co-Management Policy has been developed to provide a roadmap for Ghana fisheries management that transitions from a basically top-down consultative management framework to an approach that provides for some delegation of authority to resource users and other stakeholders in the decision-making processes.<sup>36</sup> Further, the policy provides the implementation arrangement including institutional roles and responsibilities that ensure a flexible framework that can adapt co-management systems to the unique nature of the various fisheries under the nation's jurisdiction.<sup>37</sup>

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<sup>32</sup> Ministry of Fisheries and Aquaculture Development (MTEF) (n 28) p 5.

<sup>33</sup> *Ibid.*

<sup>34</sup> Ministry of Fisheries and Aquaculture Development, Annual Progress Report (2020) p 20 <[https://www.ndpc.gov.gh/media/Ministry\\_of\\_Fisheries\\_and\\_Aquaculture\\_APR\\_2020.pdf](https://www.ndpc.gov.gh/media/Ministry_of_Fisheries_and_Aquaculture_APR_2020.pdf)> accessed 19 February 2023.

<sup>35</sup> Ghana Adopts Co-Management Strategy to Protect Fisheries, Africa Defence Forum, Newsletter (December 2021 <<https://adf-magazine.com/2021/ghana-adopts-co-management-strategy-to-protect-fisheries/>> accessed 24 February 2023.

<sup>36</sup> Ministry of Fisheries and Aquaculture Development, Co-Management Policy for the Fisheries Sector (2020) <[https://www.crc.uri.edu/download/GH2014\\_POL112\\_MOFAD\\_FIN508.pdf](https://www.crc.uri.edu/download/GH2014_POL112_MOFAD_FIN508.pdf)> accessed 24 February 2023.

<sup>37</sup> *Ibid.*

## **KEY REGULATORY GAPS AND CHALLENGES**

There are a number of regulatory gaps and challenges that need to be addressed, if Ghana is to revive its fisheries sector and to achieve the full benefits of the sector. There are five key challenges that confront the sector. They are: Weak enforcement of fisheries laws and regulations, weak human and institutional capacity, low compliance with fisheries laws and regulations by private sector operators, lack of adequate funding, and, weak collaboration among stakeholders.

### **Weak Enforcement of Fisheries Law and Regulations**

The government has limited capacity to enforce existing fisheries law. As a result, it has not managed to prevent the use of illegal methods to fish, despite a ban. There is increase in incidences of fishing operators engaged in IUU which has resulted in the fast depletion of fisheries.<sup>38</sup> Both the marine and inland capture sectors are under threat of IUU activities, which damages marine ecological systems and diminishes socioeconomic benefits. The activities of artisanal fishermen include use of illegal fishing nets (e.g. very fine mesh), dynamite, poison, and light aggregate equipment.<sup>39</sup> More than 90 percent of artisanal fishermen along the coast use nets with mesh sizes smaller than the legally-approved 25mm, which capture juvenile fish, thus threatening future stocks;<sup>40</sup> while in the Central Region, one of every two artisanal fishermen tend to use lights to aggregate and catch more fish; anecdotal evidence indicates that dynamite is often employed together with light.<sup>41</sup> On the other hand, trawlers target juvenile stocks, underreport catches (including the use of transshipment at sea), and discard large volumes of less desirable “trash fish”.<sup>42</sup> Semi-industrial vessels that operate as purse seiners may employ light fishing.<sup>43</sup> IUU is not perpetrated by only local fishing fleets, but also by Chinese-owned industrial fishing vessels. Their illegal catch, locally called “saiko”, is disguised as by-catch and transferred to artisanal

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<sup>38</sup> Ibid 20-21.

<sup>39</sup> Ghana Environmental Analysis (n 4) 101.

<sup>40</sup> W Akpalu, ‘Fishing, Regulations, Individual Discount Rate, and Fisherman Behaviour in a Developing Country Fishery’ (2008) 13 *Environment and Development Economics* 591-606.

<sup>41</sup> W Akpalu, ‘Determinants of Noncompliance with Light Attraction Regulation Among Inshore Fishers in Ghana’ (2011) 40 *The Journal of Socio-Economics* 172-177.

<sup>42</sup> Ghana Country Environmental Analysis (n 4) 101.

<sup>43</sup> P Bannerman and R Quartey, Report on the Observations of Commercial Light Fishing Operation in Ghana. Marine Fisheries Research Division (MFRD) (Tema 2004).

boats for retail at landing beaches.<sup>44</sup> Obviously, IUU fishing cannot take place without the complicity of some government officials, who either turn a blind eye to IUU activities by the Chinese-owned Industrial vessels or take bribes and not enforce the law. It is alleged that bribes by some officials of the marine police, the navy and Ghana Ports and Harbour (GPHA) routinely collect bribes in the form of 25kg cartons of high value fish, and allow cargo to pass uninspected.<sup>45</sup> Saiko is a severely destructive form of illegal fishing and must be curbed. In 2017 alone, “saiko” catches sold, amounted to between US\$40.6 and 50.7 million when sold at sea and to between US\$52.7 and 81.1 million when sold at the landing site.<sup>46</sup> There is the need to increase resource allocation for monitoring, control and surveillance operations, intensify fisheries enforcement activities to sensitize and apprehend recalcitrant operators for prosecution.<sup>47</sup> If pragmatic solutions are not put in place urgently by stakeholders, IUU fishing could collapse the fishing industry in Ghana.

Prosecution of the perpetrators of IUU fishing in Ghana is largely unsuccessful, due mainly to weaknesses in the prosecutorial system for offenders.<sup>48</sup> There is a large gap between the number of offences and the number of prosecutions, inconsistent prosecution amounts, provision of penalty waivers without clear reasons, license renewal for offenders, irregular infractions reporting and follow-up, and high proportion of uncollected fines.<sup>49</sup> For example, in 2019, authorities arrested five industrial trawl vessels. All five cases went through the out of court settlement procedure and fines paid except \$1 million fine imposed on the vessel Lu Rong Yuan 956 which defaulted in payment.<sup>50</sup>

Most tuna vessels operate on joint-venture basis, with Ghanaians owning at least 50 percent shares and enter high-purchase agreements as required by the Fisheries Act. These measures have been open to corruption and abuse and are not easy to enforce.<sup>51</sup> The Fisheries Act, gives the Ghanaian partner full ownership of the vessel after five years, but this is not enforced because of a loophole that allows vessels to change ownership after

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<sup>44</sup> Ghana Country Environmental Analysis (n 4) 102.

<sup>45</sup> Environmental Justice Foundation Report (2022) p 23 <<https://ejfoundation.org>> accessed 30 June 2023.

<sup>46</sup> *Ibid.*

<sup>47</sup> Ministry of Fisheries and Aquaculture Development (n 34) 20.

<sup>48</sup> Ghana News Agency, Fisheries Crimes and Prosecution: Has Ghana’s Alternative Dispute Resolution (ADR) Proven Effective? (2021) <<https://gha.org.gh>> accessed 30 June 2023.

<sup>49</sup> *Ibid.*

<sup>50</sup> *Ibid.*

<sup>51</sup> Fishery and Aquaculture Industry in Ghana <<https://www.fao.org>> accessed 19 February 2023.



four years and become subject to a new agreement.<sup>52</sup> This loophole has allowed some locals to front for foreigners in return for small monthly bribe and by-catch fish, thereby undermining the operation of the policy of implementation. In addition, the registration fee for a 300 gross registered tonnes (GRT) and licence fee charged by the FC are low.<sup>53</sup> The licence fee is among the lowest in West Africa coastal countries, making Ghana's waters highly attractive to foreign investors.<sup>54</sup>

The law provides for a regulatory body, the Fisheries Monitoring, Control, Surveillance, and Enforcement Unit, as well as a Fishery Advisory Council. Though the government has a vessel monitoring system to check illegal fishing in Ghana; unfortunately, the monitoring, control and surveillance of the Exclusive Economic Zone (EEZ) and enforcement of other relevant fisheries laws are weak, making it difficult to assess the level of illegal fishing.<sup>55</sup>

Apart from section 93 of the Fisheries Act which mentions Fisheries Impact Assessment (FIA), there is no legislative instrument or regulation defining processes for the development of the FIA.<sup>56</sup>

There are also weaknesses in the system of prosecution of offenders. When trawlers are caught violating regulations and are taken to court or referred to Alternate Dispute Resolution (ADR), violators are fined or settlements are made. However, these settlements fail to deter offenders, mainly because of low fines.<sup>57</sup> Though not clearly stated in the Fisheries Act, there has been a practice where successive Fisheries Ministers have created some discretionary powers to vary the decision of the ADR. An ADR committee could fine a fishing vessel one million dollars and the Minister could scale it down to an amount he or she thinks it is feasible. The legal basis for the Ministerial discretion is unclear.<sup>58</sup> Professor Akpalu<sup>59</sup> has spoken against this discretionary power and wondered why one person should be deciding what should be paid to the state. He said, "we are observing trawlers violating

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<sup>52</sup> Ghana Country Environmental Analysis (n 4) 107.

<sup>53</sup> Registration fee is US\$1,350 and Licence fee is US\$35/GRT respectively.

<sup>54</sup> World Bank (2017).

<sup>55</sup> Fishery and Aquaculture Industry in Ghana (n 51) p 30 <<https://www.fao.org>> accessed on 19 February 2023.

<sup>56</sup> Ibid.

<sup>57</sup> Akpalu (n 5) 3.

<sup>58</sup> Ghana News Agency (n 48).

<sup>59</sup> Professor W Akpalu is a Fisheries Economist and Director of the Environmental and Natural Resources Institute (ENRRI-EFD Ghana).

all these regulations and nothing happens to them. Even when they are caught, the punishment is so low for them since these cases are not settled in court but through ADR arrangement where these cases are arbitrated behind closed doors”.<sup>60</sup>

Enforcement of fisheries law and regulations is weakened by the system of out-of-court arbitration. This arrangement enables trawler-owners to avoid strict punishment and is open to political interference.<sup>61</sup> Leaders of fishing communities in Axim, a coastal town in the Western Region, have called for an end to what they call politicisation of the fisheries sector. They blame the current woes in the fisheries industry on politicians. They claim interference in the affairs of the industry by politicians was posing a challenge to the implementation of fisheries laws and regulations.<sup>62</sup> There is little transparency in the process. The fines are too low to serve as an effective deterrent. Moreover, the lack of transparency makes the system susceptible to bribery.<sup>63</sup> Witness testimony suggests that about 15% by-catch allowance stated in trawler licenses is being openly and systematically flouted by some staff of the Monitoring Control and Surveillance (MCS) division and other port authorities.<sup>64</sup> Implementing agencies of fisheries enforcement, including the navy, fisheries observers and port authorities, engage in corruption routinely and relatively openly, in the form of high-value boxes of fish traded for an official’s silence.<sup>65</sup>

### **Weak Human and Institutional Capacity**

The institutional and human capacity of MoFAD and its Agencies to accelerate sector development to enhance service delivery is weak. The technical human capital-base of MoFAD and its agencies is highly inadequate.<sup>66</sup> In terms of technical expertise, there are too few fisheries experts, from fisheries economists to fishing gear specialist, even though technical knowledge is crucial to mitigating adverse impacts.<sup>67</sup> The capacity of the FC to implement key planned operations is sometimes weakened by retirements of key personnel

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<sup>60</sup> Ibid.

<sup>61</sup> Akpalu (n 5).

<sup>62</sup> Ghana: ‘Political Interference in the Fishing Industry Must Cease’ FCWC (2017) <<https://fcwc-fish.org>> accessed 30 June 2023.

<sup>63</sup> Akpalu (n 5) 36.

<sup>64</sup> Environmental Justice Foundation Report (n 45) p 23.

<sup>65</sup> Ibid p 24.

<sup>66</sup> Ministry of Fisheries and Aquaculture Development (n 34) 8.

<sup>67</sup> Ghana Country Environmental Analysis (n 4) 107.

and shutdown of Vessel Monitoring Systems, which limits its ability to implement planned operations.<sup>68</sup>

Another issue confronting MoFAD and its agencies is shortage of staff and equipment, particularly, those in the field. For example, most artisanal fishers use nets that have mesh smaller than what is legally allowed, yet, the FC has been unable to address this chronic issue due to lack of manpower. The FEU is usually assigned two Police personnel to investigate and prepare dockets; when they and the State Prosecutors, have other commitments, which slows down the adjudication process for fisheries law violations.<sup>69</sup> With the support of the West Africa Regional Fisheries Program (WARFP)-Ghana, gains have been made in monitoring, control and surveillance but the enforcement capacity of the FC is still inadequate, considering the magnitude and multitude of issues needing supervision.<sup>70</sup>

The MCS Unit, together with the marine police and the navy, who are charged with the task of seizing illegal gears and arresting the fishers who violate regulations are poorly resourced. Moreover, when illegal gears are confiscated, the enforcement officers are often ordered by politicians to return them, thereby,<sup>71</sup> thereby meddling and impeding the enforcement of fisheries law and policy.

Both marine and inland fish catches figures are likely underestimated due to weak data collection. The FC lacks the capacity to control actual fish catches. Catch figures are based on self-reporting by the fishers, and these reports are unreliable. Also, fish caught by trawlers and subsequently sold to canoe fishermen at sea “saiko” is not reported.<sup>72</sup>

### **Low Compliance with Fisheries Laws by Private-Sector Operators**

Given the scattered nature of canoe fishing and the regulatory agencies' limited institutional and human capacity, reduction in overexploitation and depleted stocks can only be achieved if fishers comply voluntarily with fisheries laws and regulations, or if local institutions (chief fishermen and their elders, and the fish queen) are resourced adequately. However, one main challenge is that fishing communities have little trust in the authorities,

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<sup>68</sup> Ministry of Fisheries and Aquaculture Development (n 34) 25.

<sup>69</sup> Ghana Country Environmental Analysis (n 4) 107

<sup>70</sup> *Ibid.*

<sup>71</sup> Akpalu (n 5) 4.

<sup>72</sup> *Ibid.* 3.

which makes it difficult to create a climate of cooperation and compliance, and also reflects the fact that fishers' organizations do not feel included in the decision-making process, which they see as entirely top-down.<sup>73</sup> Though, there is increase in meetings between the MoFAD, government officials, traditional and opinion leaders to discuss pertinent issues affecting the fisheries sector, these consultations need to be regular.<sup>74</sup>

To persuade canoe fishermen to reduce or avoid over catching when they are not provided with alternative livelihoods is a major challenge. Therefore, there is the need for a good strategy for creating alternative sources of income and employment, without which, the fisherman are unlikely to comply voluntarily with any law or policy that restricts their fishing opportunities.<sup>75</sup>

Another challenge is the nature of electoral politics in Ghana, which makes it extremely difficult to implement policies that restrict access to fishing for canoes. Political parties and leaders are reluctant to impose such restrictions, fearing electoral losses. In a competitive client list system with two parties of more or less equal size, losing votes in fishing communities could prove decisive in elections. This clearly raises issues of conflict and structural contradictions in implementing fisheries law and policy; particularly, when it involves dealing with premix fuel in the fishing communities. This is a risk few politicians would be willing to take. For the same reason, it is also politically difficult to cut or reduce subsidies for premix fuel.<sup>76</sup>

### **Lack of Adequate Funding**

Inadequate funding remains a major challenge for the MoFAD and FC. As a result, they are unable to adequately fund and implement key projects and implement planned activities. For instance, the operational budget allocation for the sector in 2020 was GHS128,879,094. This amount was to cater for the operations of MoFAD, FC and NPFS. This amount is woefully inadequate to enable the sector implement key projects and programmes.<sup>77</sup> Further, agitations from operators resulted in review of the new licensing fees downward from US\$200 to US\$135, and this affected sector revenue generation and operations of the

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<sup>73</sup> Akpalu (n 5) 5.

<sup>74</sup> Ministry of Fisheries and Aquaculture Development (n 34) 20.

<sup>75</sup> Akpalu (n 5) 5.

<sup>76</sup> *Ibid* 6.

<sup>77</sup> Ministry of Fisheries and Aquaculture Development (n 34) 7.

sector. Also, the target to complete Phase I and operationalize the Fisheries College by end of 2020 as well as start construction on the National Aquaculture Centre could not be achieved due to financial constraints. In addition, MCS activities including sea and land patrols to combat illegal fishing were also affected by inadequate funds.<sup>78</sup>

### **Weak coordination and Collaboration among Stakeholders**

Weak coordination of stakeholders has sometimes led to duplication of efforts and multiplicity and cumbersome permitting system.<sup>79</sup> International donors support to the fisheries sector normally depends on government cooperation. Given Ghana's limited state capacity, it is critical to assist the government to ensure effective and transparent coordination of activities in the fisheries sector. Within the government, this applies particularly to the division of labour between MoFAD and the FC. Beyond the government, the same applies to coordination and cooperation with private actors (most importantly, the fisheries organisations, as well as NGOs and civil society organisations). The main responsibility for such coordination lies with MoFAD, but it is not clear whether MoFAD has the capacity to manage or ensure regular coordination.<sup>80</sup>

In addition, it is important to ensure that other partnerships do not duplicate or compete with international support. International donors should ensure that Fish Development Programs are incorporated into formal existing mechanisms of the state-donor coordination. There should be a focus on information sharing and coordination with other donors. That will also reduce the risk of 'double dipping' – receiving technical or financial assistance from several partners for the same activity.<sup>81</sup>

### **HOW TO ADDRESS THE GAPS AND CHALLENGES**

To ensure enforcement of fisheries law and to strengthen institutional and human capacity, the following gaps and challenges should be addressed: resistance or non-compliance to fisheries regulations by fishers; high cost of patrols, lack of patrol boats, limited operations in the inland fisheries due to inadequate staff and proliferation of illegal fishing methods.

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<sup>78</sup> Ibid.

<sup>79</sup> Ibid 24.

<sup>80</sup> Akpalu (n 5)

<sup>81</sup> Ibid.

This can be overcome through enforcement of patrols (sea patrols and beach combings), quayside inspection, surveillance, inspection of vehicles for registration and licence renewal; supervised transshipments and monitoring of fish imports to ensure that IUU fisheries products do not enter the country. This is done in collaboration with other institutions such as the Ghana Navy, Marine Police, Attorney General Department and other security agencies.<sup>82</sup>

In order to bridge the gap in staff numbers and to enhance the technical human capital-base of MoFAD and other agencies at all levels, more staff should be recruited; logistics should be acquired, and specialized training and skills enhancement programmes regularly conducted to improve the productive capacities of staff to deliver quality services, through the deployment of officers to collect fish catch and price data at landing beaches, and conduct regular canoe frame surveys.<sup>83</sup>

To ensure high compliance with fisheries laws and regulations, thereby, curbing the use of illegal gears, competition with other water users and pollution by settlement communities surrounding these bodies, the fisheries Co-Management Policy should be fully implemented and expanded to encourage community involvement in the management of inland water resource.<sup>84</sup> It will make stakeholders such as the Minister for Fisheries and Aquaculture, Executive Director of the Fisheries Commission and its implementing agencies, Ghana Navy, Marine Police, Attorney General, Fisheries Associations, chief fishermen, fishers, traditional and opinion leaders to assist in the effective management of fisheries in Ghana, and be part of fisheries decision – making process.<sup>85</sup>

Inadequate funding for key projects, programmes and implementation of planned activities is a major challenge for the regulatory agencies. The yearly operational budget allocation for regulatory agencies should be increased; licensing and registration fees should be revised upwards to boost revenue generation and operations of the sector; sources of funding should be diversified. If these steps are taken, together with support from international donors (active in fisheries governance in Ghana), will provide adequate funds

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<sup>82</sup> Medium Term Expenditure Framework (MTEF) (n 28) 41.

<sup>83</sup> Ministry of Fisheries and Aquaculture Development (n 34) 8.

<sup>84</sup> Medium Term Expenditure Framework (MTEF) 5 (n 28) 29.

<sup>85</sup> Ministry of Fisheries and Aquaculture Development (n 34) 20.

for the sector to use to implement its plans and projects.<sup>86</sup> Weak and ineffective sector collaboration can be strengthened if there is improved working relationship with Donor Partners, Civil Society Organisations (CSOs) and other Ministries, Departments and Agencies (MDAs).<sup>87</sup>

## **CONCLUSION**

This article has discussed some of the main gaps and challenges facing MoFAD, FC and other agencies in the fishery sector of Ghana. Ghana has passed the Fisheries Act and Fisheries Regulations as the main laws to regulate the fisheries sector, and has the necessary institutions to monitor, control, survey fishing operations within Ghana's waters, and enforce fisheries law and regulations; yet the regulatory agencies still face major challenges, including weak enforcement and compliance of fisheries law and regulations, weak and inadequate institutional and human capacity, and lack of adequate funding.

These gaps and challenges can be attributed to weaknesses in the system of prosecution of offenders. Where, violators of fisheries laws and regulations are taken to court or referred to ADR, but are ordered to pay or agree to pay low fines, either in court or through ADR.<sup>88</sup> The fines are too low to serve as an effective deterrent, and weakens enforcement of fisheries law and regulations. It enables vessel-owners to avoid strict punishment and is open to political interference. There is little transparency in the process, which makes the system susceptible to bribery.<sup>89</sup>

Joint venture agreements between Ghanaians and foreigners, have been open to corruption and abuse and are not easy to enforce.<sup>90</sup> When the Ghanaian partner is due to assume full ownership of the vessel after five years, a loophole allows the vessel to change ownership after four years, which makes enforcement difficult.<sup>91</sup> This loophole has allowed some locals to front for foreigners in return for small monthly bribe and by-catch fish; the

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<sup>86</sup> Ibid 7.

<sup>87</sup> Ibid 23.

<sup>88</sup> Akpalu (n 5) 3.

<sup>89</sup> Ibid 36.

<sup>90</sup> Fishery and Aquaculture Industry in Ghana (n 51).

<sup>91</sup> Ghana Country Environmental Analysis (n 4) 107.

vessel registration fees and licence fees charged by the FC are low,<sup>92</sup> making Ghana's waters highly attractive to foreign investors;<sup>93</sup> the monitoring, control and surveillance of the EEZ and enforcement of other relevant fisheries laws by the FEU is weak, making it difficult to assess the level of illegal fishing;<sup>94</sup> there is no legislative instrument or regulation defining processes for the development of the FIA.<sup>95</sup>

There is weak institutional and human capacity to enhance service delivery. The technical human capital-base of the regulatory agencies is inadequate.<sup>96</sup> There are too few fisheries experts, fisheries economists and fishing gear specialist;<sup>97</sup> The FCs capacity to implement key planned operations is sometimes weakened by retirements of key personnel and shutdown of Vessel Monitoring Systems;<sup>98</sup> there is shortage of staff and equipment, particularly, those in the field; marine and inland fish catches are underestimated and unreliable because of weak data collection, based on self-reporting by the fishers, and unreported fish sold to canoe fishermen at sea (saiko).<sup>99</sup>

Fishing communities have little trust in the authorities, which makes it difficult to create a climate of cooperation and compliance. Fishers' organizations feel left out in the decision-making process, which they see as entirely top-down.<sup>100</sup> There should be regular consultations between the institutions, traditional leaders, chiefs and opinion leaders and other stakeholders.<sup>101</sup> There is lack of adequate funding due to low operational budgets, low registration and licence fees.

Despite the efforts of government and sector ministries to deal with some of the challenges, funding for MoFAD and the FC should be increased to enable them effectively enforce fisheries laws and regulations; build better technical human and institutional capacity; upgrade and modernise their monitoring and surveillance systems to promote compliance; ensure proper collaboration between MoFAD, FC and chiefs, traditional and opinion leaders

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<sup>92</sup> Registration fee is US\$1,350 and Licence fee is US\$35/GRT respectively.

<sup>93</sup> World Bank (2017).

<sup>94</sup> Fishery and Aquaculture Industry in Ghana (n 34) 30.

<sup>95</sup> Ibid.

<sup>96</sup> Ministry of Fisheries and Aquaculture Development (n 34) 8.

<sup>97</sup> Ghana Country Environmental Analysis (n 4) 107.

<sup>98</sup> Ministry of Fisheries and Aquaculture Development (n 34) 25.

<sup>99</sup> Ibid 3.

<sup>100</sup> Akpalu (n 5) 5.

<sup>101</sup> Ministry of Fisheries and Aquaculture Development (n 34) 20.



and other stakeholders through regular consultations and sensitisations on the Co-Management Policy.

## **FUTURE PROSPECTS**

The article has identified gaps and challenges that confront regulatory institutions in the fisheries sector. These challenges are not exhaustive. There are other gaps and challenges apart from those that have been identified in this article. These gaps and challenges were identified because they are short-term and medium-term challenges that need to be addressed. They are very important in reviving the fisheries sector, ensuring effective enforcement and compliance of fisheries law and policy; hence, sustainable fisheries management. Below are some suggested solutions.

There is the need to increase resource allocation for MCS operations, intensify fisheries enforcement activities to sensitize and apprehend recalcitrant operators for prosecution; reconstitute Out-of-Court Settlement Committees to handle cases of fisheries infractions efficiently; ban and monitor the influx of unapproved fishing nets, procure and make available approved fishing gear to curb the use of illegal fishing nets.<sup>102</sup> To improve voluntary compliance by fishers of fisheries laws and regulations, there should be: regular sensitization and education of fishers and all stakeholders; high cost of patrols, lack of patrol boats, limited operations in the inland fisheries should be addressed; adequate staff must be recruited and the proliferation of illegal fishing methods stopped.<sup>103</sup> The number of Observer Missions carried out on board industrial vessels to monitor and report compliance with fisheries legislations at sea should be increased, and more fishing communities should be sensitized on fisheries laws and regulations to promote voluntary compliance by fishers.<sup>104</sup> The Minister and the FC should take put in place strong measures to sanction and possibly revoke the fishing licenses of vessels which intimidate, threaten and bribe observers.<sup>105</sup> To ensure co-management systems are expanded to encourage community involvement in the management of inland resources, the use of illegal gears, competition with other water uses and pollution by settlements communities surrounding these water

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<sup>102</sup> Ibid 21.

<sup>103</sup> Medium Term Expenditure Framework (MTEF) (n 28) 41.

<sup>104</sup> Ibid 4.

<sup>105</sup> Environmental Justice Report (n 45) p 23.

bodies should be curbed, to promote sustainable inland fisheries resource exploitation.<sup>106</sup> Co-management committees should be established at the community, zonal and national levels, and provisions in the Fisheries Act be revised to make co-management feasible and workable.<sup>107</sup> There is the need to recruit, train and provide logistics to MoFAD and its agencies to effectively coordinate, implement, monitor and evaluate planned operations;<sup>108</sup> current research activities are limited to marine fisheries and this needs to be extended to inland fisheries. Capacity enhancement of staff is required to enable them expand their operations to the inland sub-sector;<sup>109</sup> sources of funding for the MoFAD and FC should be diversified and budgetary allocations increased to enable them fully implement their plans and projects.<sup>110</sup> As part of Fisheries Legal Review, a new Fisheries and Aquaculture Policy should be implemented, to pave way for drafting of a new Fisheries Act. The new Act should ensure flexibility in responding to emerging technical fisheries issues in a timely manner and improve the capacity of management to adapt to changes with the requisite legal authority to undertake its mandate.<sup>111</sup>

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<sup>106</sup> *Ibid* 29.

<sup>107</sup> Ghana Country Environmental Analysis (n 4) 109.

<sup>108</sup> Ministry of Fisheries and Aquaculture Development (n 34) 25.

<sup>109</sup> Medium Term Expenditure Framework (MTEF) (n 28) 32.

<sup>110</sup> Ministry of Fisheries and Aquaculture Development (n 34) 25.

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