



REVIEW ARTICLE

LEGAL INSTRUMENTS IN FISHERIES SECTOR OF NEPAL

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ABSTRACT

Aquaculture is one of Nepal's fastest-growing agricultural subsectors. The current total national fish production is 77,000 mt, with capture fisheries accounting for 28% and aquaculture accounting for 72%. Modern aquaculture and fisheries practices contribute nearly 1% of GDP and 2.68 % of Agriculture GDP (AGDP). This sub-positive sector's performance, in contrast to others whose contribution to GDP has declined over time, suggests its popularity among farmers. Fisheries and aquaculture education, research, and extension policies are extensions of the main national agriculture policy. Fisheries and aquaculture are a thriving sub-sector of Nepal's agriculture sector, with high growth potential but limited organizational capacity. The Nepal Agricultural Research Council (NARC) is mandated to conduct fisheries and aquaculture research. Overall, the country's fisheries activities are primarily governed by the government's policy strategy. As the focal institution, the Directorate of Fisheries Development of His Majesty's Government of Nepal formulates and implements national fisheries and aquaculture development plans and programs approved by the Ministry of Agriculture and Cooperatives. The primary goal of the national fisheries policies and acts is to contribute to economic growth and poverty reduction through inclusive, equity-based, and ecosystem-based aquaculture practices (EAA). Specific laws and legislation on aquaculture development must be drafted or enforced to build capacity and facilitate entrepreneurship. Furthermore, Best Management Practices (BMPs) must be identified and implemented for the sub-sector to grow sustainably.

KEYWORDS

Aquaculture, legislations, government, policy, laws

1. INTRODUCTION

A legal instrument is a term of art that refers to any formally executed written document that records and formally expresses a legally enforceable act, process, or contractual duty, obligation, or right, and thus evidences that act, process, or agreement. A contract, will, legislative act, notarial act, certificate, deed, bond, court writ or process, or any law passed by a competent legislative body in municipal (domestic) or international law are some examples. Many legal instruments were written under seal, which was accomplished by affixing a wax or paper seal to the document as proof of its legal execution and authenticity (which frequently eliminated the need for consideration in contract law). However, many jurisdictions have abandoned the requirement that documents be sealed to have legal effect (Legal instrument, 2021).

Local or regional governments support such legal instruments, which can be obtained from any public notary. Only an authorized individual can assist in the authorization of legal instruments such as affidavit forms, deeds, powers of attorney, certificates, bonds, or contracts. It not only includes statements from those involved in the transaction process, but it also guarantees the written statement (Importance of Legal Instruments and How to Obtain Them, 2021).

Fisheries have been practiced for a long time in Nepal and have a strong

tradition. Aquaculture, which began in the early 1950s, is a relatively new activity. There has been a significant increase in fish production over the last 20-25 years. Fisheries and aquaculture are not the most important agricultural activities in Nepal, but they are an important supplement to daily food in rural areas. Fish is considered as good luck (Sagun) in Nepal and is acceptable for consumption by all groups (Rai et al., 2008).

Aquaculture is one of Nepal's fastest-growing agricultural subsectors. Nepal is landlocked, so it relies solely on inland aquaculture, specifically finfish farming. The climate encourages the cultivation of both warm and cold water species. The most commonly cultivated species are indigenous and exotic carps, Pangas catfish, and Rainbow trout. Aquaculture institutional development in Nepal began nearly seven decades ago, but progress has been slow. Nonetheless, the progress made by this sector over the last decade is highly commendable (Kunwar & Adhikari, 2016). Long-term development goals for fisheries and aquaculture include improving livelihoods through sustainable fisheries and aquaculture technology for food, employment, and income. According to the Nepal Agriculture Perspective Plan (APP), Nepal fishery is a small but important and promising sub-sector of agriculture, accounting for approximately 2.47 percent of the country's agricultural gross domestic product (AGDP). The Directorate of Fisheries Development serves as the country's focal point for fisheries and aquaculture. It falls under the jurisdiction of the Department of Agriculture, the Ministry of Agriculture, and the

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Cooperatives. Nepal Agricultural Research Council (NARC) was established in 1991 as an autonomous apex body at the national level to increase agricultural productivity to conduct agricultural research activities (Labh, et al., 2017).

2. OBJECTIVE OF THE STUDY

The objective of the study is to know about different legal documents as policies and acts that are related to the fisheries sector of Nepal.

3. METHODOLOGY

During the preparation of this manuscript, information was gathered from secondary sources such as research articles, books, reports, news, and other various websites of Government as the Department of Agriculture, Department of Livestock Services, Central Fisheries Promotion and Conservation Center, Nepal Law Commission and so on.

4. RESULTS AND DISCUSSION

Policies related to fisheries in Nepal

4.1 Agriculture Development Strategy (ADS) (2015-2035)

Nepal's Agriculture Development Strategy (ADS) is a national sectoral strategy for the years 2015-2035. The ADS overall goal includes five dimensions: increased food and nutrition security, poverty reduction, competitiveness, higher and more equitable rural household income, and strengthening farmers' rights. The ADS also aims to increase the prosperity of farmers and agro-entrepreneurs by increasing income, improving livelihoods and ensuring food and nutrition security. The ADS promotes the inclusion of disadvantaged groups and regions, as well as a Markets for the Poor-based approach to value chain development that emphasizes the need for more equitable benefit distribution along the value chain. The Strategy's specific outputs include a decentralized extension and research system responsive to the needs of farmers and agro-enterprises; a strengthened agricultural education system; a farming sector composed of adequately sized farms that use land efficiently and sustainably; a variety of improved animal breeds appropriate for Nepal farming system conditions are available to farmers. A variety of mechanization options available to farmers through the private sector; increased farmer resilience to climate change, disasters, price volatility, and other shocks. Sustainable farming, good agricultural practices, and good veterinary animal husbandry practices have all been established. Forestry is based on subsistence production, agriculture friendly, and inclusive forest management practice. In terms of climate change, the document intends to support the Local Adaptation Plan for Action for Climate Change, as well as to highlights the role of forestry sector components in adaptation and mitigation. ADS will be monitored on a regular, professional, and participatory basis. Monitoring divisions and units will be strengthened at the Ministry of Agricultural Development and department levels, and the ADS Implementation Support Unit will provide assistance and capacity building (Agriculture Development Strategy (ADS) , 2014)

4.2 Agriculture Prospective Plan (APP) (1995-2015)

The Nepal Agriculture Perspective Plan (APP) classified Nepal fishery as a small but important and promising sub-sector of agriculture, accounting for approximately 2.47 percent of the country's agricultural gross domestic product (AGDP). Substantial progress has been made in the aquaculture sub-sector as the government has prioritized it over the last few decades with the assistance of some donors. A Fisheries Perspective Plan (FPP) has been developed as part of the APP. The three-year interim program (2007/08-2009/10) prioritized increasing fish production and productivity to provide income generation and poverty alleviation to the poor (Rai et al., 2008).

4.3 National Wetland Policy 2059-2003

Wetlands are thought to be fertile agricultural lands that are also rich in biological diversity. These wetlands, which are located in various ecosystems of High Mountain and lowland plains, provide habitat for a variety of wildlife species. Wetlands are home to a variety of plant and animal species and play an important role in plant and animal diversity. The wetlands policy was developed to support the planned conservation, maintenance, and development of the country's wetlands, as well as the economic, social, and cultural development of local communities by improving their living conditions. By signing the Ramsar Treaty in 1971, Nepal demonstrated its commitment to wetlands conservation,

particularly the conservation of waterfowl habitats of international importance. The current wetlands policy is following Article 3 (1) of the Convention, as well as the need for the signatory nations to develop a national policy. The policy is also consistent with the directives of the signatory nations passed by the contracting parties in 1996, which call for the mobilization of local communities to participate actively in the management of wetlands listed in the Ramsar Site, as well as other wetlands and their watershed areas. The main goal of the policy is to involve local people in the management of Nepal's wetlands and to conserve wetlands biodiversity through wise use of wetlands resources. The policy also seeks to integrate the conservation and management aspects of wetlands conservation into the larger framework of environmental management. The main goal of the policy is to involve local people in the management of Nepal's wetlands and to conserve wetlands biodiversity through wise use of wetlands resources. Conservation of threatened and common wildlife species, aquatic fauna, and other genetic sources that rely on wetlands is also the goal of this policy (National Wetland Policy 2059, 2018)

4.4 National Agriculture Policy, 2004-2015

The Nepalese government issued this National Agricultural Policy in 2004. The need for formulating and implementing a new National Agricultural Policy that retains the basic aspects of the Agricultural Perspective Plan has been felt in light of the country's sustainable development agenda and millennium development goals. This policy will guide all commodity and subject-specific policies that have been developed in this sector. The agricultural sector's long-term vision is to raise people's living standards through sustainable agricultural development, which will be accomplished by transforming the current subsistence-oriented farming system into a commercial and competitive farming system.

A commercial and competitive farming system is being developed to help with the task of ensuring food security and poverty alleviation by achieving high and sustainable economic growth-

- Agricultural productivity and output will be increased.
- The foundations of a commercial and competitive farming system must be created and made competitive in regional and global markets.
- Natural resources, as well as the environment and biodiversity, must be protected, promoted, and used wisely.

To achieve the objectives and goals that are related to fisheries, the following policies shall be adopted:

- The supply of the main production fingerling shall be ensured through regular monitoring of their imports, production, and stocks.
- Local production, sale, and distribution of improved agricultural resource inputs (fingerlings) must be maintained, as must the quality of their supply. Private agricultural laboratory services, as well as high-quality product processing services, will be regulated and accredited.
- Through a contract/lease agreement, the private sector will be encouraged to operate suitable farms/centers (National agricultural policy 2004-2015, 2004).

4.5 Agro Biodiversity Policy, 2063

The vision of Nepal's Agro-biodiversity Policy is to conserve and sustainably use agricultural genetic resources/materials and associated traditional knowledge with the participation of concerned stakeholders for present and future generations. Based on the spirit of international treaties/agreements and national initiatives, the policy recognizes agro biodiversity as an integral component of biodiversity to ensure social, economic, and environmental benefits to the Nepalese people. Its goals are as follows:

- To improve agricultural growth and food security by conserving, promoting, and sustainably using agrobiodiversity.
- To safeguard and promote the rights and well-being of farming communities concerning their indigenous knowledge, skills, and techniques (IKT).
- Create options for a fair and equitable distribution of benefits resulting from access to and use of agricultural genetic resources and materials.

- To develop effective agricultural genetic resource management, commercialization, and use in the current context of exploiting local, national, and international markets, as well as international trade regulations.
- To contribute to the long-term preservation of ecological balances (ecosystem services).
- To promote agrobiodiversity conservation and use in the contexts of national seed, food quality and safety, and product marketing regulations.
- To promote inter-ministerial and inter-sectoral consultation, problem identification, and regulation development in the context of agrobiodiversity (Agro Biodiversity Policy 2063, 2006).

4.6 National Land Utilization policy, 2015

In the context of Nepal, encroachment over arable lands, forests, Government and public lands, and various natural resources is rampant these days, owing to fast-growing population, internal migration, unmanaged and rapid urbanization, among other factors, and protection thereof has become a challenge. To manage such risks and challenges, the Government of Nepal (GoN), Council of Ministers adopted a National Land Use Policy in 2013 A.D. (2069 B.S.). The 2013 A.D. National Land Use Policy prioritized the protection of arable lands to ensure food security. The severe earthquake of April 25, 2015 A.D., and its aftershocks have exposed us to non-vulnerable secure human settlements in the country. Following a review of the Land Use Policy, 2013 A.D., the Land Use Policy, 2015 was created to address all of these contemporary issues on a long-term basis. The following strategies must be implemented to achieve the stated vision, mission, and objectives.

- Private and cooperative sectors will be encouraged to participate in physical infrastructure development projects, industrial development, and land development programs.
- Grants, facilities/subsidies, and compensation shall be ensured to protect and promote the agricultural sector by discouraging non-agricultural use of arable lands and changes thereto.
- Priority will be given to developing green certificates through mapping and demarcation of forests and Reserve Areas.
- If forest area is to be used in the implementation of National Priorities Projects, afforestation equivalent to that area should be mandatory.
- Watershed areas, wetland areas, Reserves, intermediary areas, National Parks and Wildlife Reserves, and pasture areas will be conserved with special measures.
- Conservation, promotion, and use of spoiled forest and natural heritage areas (lakes-reservoirs, ponds, rivers or rivulets/brooks or brooklets, wetlands, among others) shall be initiated (Land Use Policy 2015, 2015).

4.7 Agri Business Promotion Policy, 2063

The Agri-Business Promotion Policy emphasizes agriculture sector diversification, commercialization, and promotion, as well as private sector involvement in commercial farming. It emphasizes that the farmer's standard of living will not improve unless the agriculture sector transitions from subsistence to commercial farming. The policy seeks to alleviate poverty by encouraging the production of marketable and competitive agro-products. It recognizes the importance of promoting both internal and external markets. This policy was created in the spirit of National Agriculture Policy 2061, which emphasizes the establishment of business service centers for quality agricultural inputs and services. The importance of collaboration between the private sector and the government in the export of high-quality goods has been emphasized. In the context of Nepal's WTO accession, developing a market network is a top priority. The policy views infrastructure development as a critical component of commercialization and envisions promoting a partnership approach between the government and the private sector (Agri-Business Promotion Policy, 2063, 2006).

4.8 National Cooperative Policy, 2069 (2012)

The objective of the cooperative is to contribute to the economic and social development of the country by establishing industries and businesses based on the cooperative system. The National Cooperative Policy, 2069

was issued for the balanced development of the cooperative sector on the occasion of the international year of cooperatives. The vision of this policy is to develop a strong and capable cooperative system for sustainable and equitable economic development and progressive social transformation of the country. The major objectives of the policy are:

- To develop the institutional capacity of cooperatives through education, training, and information to increase public awareness regarding development and cooperation.
- All types of products and services including the agriculture sector make cooperatives active in the business.
- To increase the access of cooperatives to improve the living standards of marginalized people.

Similarly, the policies are:

- The modification will be made in the sectoral policies and laws on the related issues so that there will be no impediment to the establishment and operation of the industry and business through a cooperative system.
- The use of necessary types of equipment will be encouraged.
- Agricultural production, storage, processing marketing, and supply management of agricultural inputs will be encouraged.
- Public sector factories, agricultural firms, and markets involvement of cooperatives in the management of centers and participation will be given priority.
- Investment and management of cooperatives in the management of centers and participation will be given priority (National Cooperatives Policy 2069 (2012), 2013).

Acts related to fisheries in Nepal

- Aquatic Animal Protection Act, 2017(1960)

This is Act No. 18 of the year 2017 (1960)

An act to provide for the protection of aquatic animals and other related matters. The act was made for the protection of aquatic animals and other related matters to maintain peace and order, as well as the general public's convenience and economic interests. So be it enacted by Parliament in the sixth year of His Majesty King Mahendra Bir Bikram Shah Dev's reign. The Nepalese government may make appropriate rules to carry out the Act's objectives.

The prescribed rules framed under this Act are

- Restriction on aquatic animal capture and killing methods.
- Prohibition on closing or demolishing fish ladder and structure doors
- The Nepalese government has the authority to prohibit the capture, killing, and wounding of certain aquatic animals.
- The Nepalese government has the authority to prohibit the catching, killing, and wounding of aquatic animals in certain bodies of water.
- Use of poison other than safe poison is prohibited.
- Anyone who constructs a dyke for electricity, water supply, irrigation, or any other purpose must include a fish ladder to the greatest extent possible so that aquatic animal movement is not impeded. Where it is not possible to construct such a ladder, the body shall establish an aquatic animal hatchery and aquatic animal nursery in such location or a nearby area to have artificial breeding of aquatic animals (Aquatic Animal Protection Act, 2017(1960), 1960).

4.9 National Parks and Wildlife Conservation Act, 2029 (1973)

This Act came into effect on 2030/6/4(1973), following the publication of a notice in the Nepal Gazette.

This act was formulated to make arrangements for the management of national parks, the conservation of wildlife and their habitat, the regulation of hunting, and the conservation, promotion, development, and to maintain good manners and the welfare of the general public, providing

proper arrangements for the use of locations of special importance in terms of natural beauty, On the advice and consent of the National Panchayat, His Majesty King Birendra Bir Bikram Shah Dev enacted this Act.

The Nepalese government may designate an area as a national park, reserve, or conservation area by publishing a notice in the Nepal Gazette outlining the boundaries. No one shall be permitted to enter a national park or reserve unless they have obtained a prescribed entry permit or written permission from an authorized official. The government may abandon, transfer ownership, or change the boundaries of a previously designated National Park, Reserve, or Conservation area. It may also block, divert, or use harmful or explosive materials in any river or stream flowing through a national park or another source of water (National Parks and Wildlife Conservation Act, 2029 (1973), 1973).

4.10 Feed Act, 2033 (1976)

An Act to Maintain Feed Purity and shall enter into force in such area and on such date as the Government of Nepal may appoint by notification in the Nepal Gazette.

This Act went into effect on 15 Jestha 2065. This act was formulated to maintain appropriate feed standards to prevent undesirable adulteration in the feed and the subtraction or extraction of any natural quality or utility contained in the feed, His Majesty King Birendra Bir Bikram Shah Dev has enacted this Act on the advice and consent of the National Panchayat.

An Act to regulate the production, handling, and marketing of animal feed. It is illegal to manufacture, sell, supply, export, import, or store contaminated feed. Fraud and deception are prohibited in the sale of animal feed supplies. The Government shall appoint an animal Feed Inspector for this Act. The Inspector has the authority to seize suspected animal feed that is contaminated (Feed Act, 2033 (1976), 1976).

4.11 Soil and Watershed Conservation Act, 2039(1982)

This act was developed to make legal provisions on land and watershed conservation by controlling natural calamities such as flood, landslide, and soil erosion, on the advice and approval of the National Panchayat, His Majesty King Birendra Bir Bikram Shah Dev has now passed this Act to maintain the general public's convenience and economic interests.

The Government may declare any area a protected watershed area, and the Watershed Conservation Officer may take within the area the measures established by the current Act for soil and watershed conservation (e.g., soil and watershed conservation (e.g., construction and maintenance of waterworks, afforestation, planting of grasses or other vegetation, protection of forests, cultivation of crops and fruits, maintenance of irrigation systems, etc.). The cultivation of lands within the protected watershed area may be carried out by the Water Conservation Officer or, in the case of private property, by the landowner or tenant following a land-use system. The Water Conservation Officer has the authority to enter protected watershed areas at any time for inspection or maintenance and to prohibit actions that may cause soil erosion or washout. Other provisions concern the formation of the National Resources Conservation Commission, which will advise the government on watershed and soil conservation issues. The government may establish District Soil and Watershed Conservation Committees to coordinate soil and watershed conservation efforts in any district (Soil and Watershed Conservation Act, 2039(1982), 1982).

4.12 Forest Act, 2049 (1993)

This act was developed to meet the basic needs of the public in general, to achieve social and economic development, to promote a healthy environment, and to ensure forest development and conservation, as well as the proper utilization of forest products, and to extend cooperation in the conservation and development of private forest by managing the national forest in the form of government-managed forest, as well as a protected forest, a community forest, a leasehold forest, and a religious forest.

As a result, in the twenty-first year of the Republic, Parliament has passed this Act, His Majesty King Birendra Bir Bikram Shah Dev reigned.

The first amendment of the act was made in 2055 (1999). All actions within a government-managed forest must follow an operational plan developed by the Forest Department. Protected forests are areas designated by the government as having special environmental, scientific, cultural, or other significance. Community forests are areas of national

forest that have been "handed over" to a user group, which has the right to develop, conserve, use, and manage the forest, as well as sell and distribute forest products at their prices. Leasehold forests are used to produce raw materials for industry or commercial purposes, as well as for agroforestry and other purposes. Lessees can be corporations, industries, or communities, and the Act outlines the application and approval processes. Religious forests are areas that have been given to religious bodies, groups, or communities for development, conservation, and use in connection with religious activities, rather than for commercial gain (Forest Act, 2049 (1993), 1993).

4.13 Animal Health and Livestock Services Act, 2055 (1999)

The act was put forward to systematize and develop the animal husbandry business, which occupies an important place in the national economy, and to provide necessary arrangements relating to healthy production; sale, distribution, export, and import of animal products or animal production inputs, the Parliament has enacted this Act on the twenty-seventh year of the reign of King Birendra Bir Bikram Shah Dev.

The Act addresses livestock health, veterinary drugs to be administered in the event of disease, a list of diseases that commonly affect animals, quarantine procedures, and restrictions on the importation and exportation of affected animals. It establishes Livestock Services, which encompasses all activities related to the veterinary aspects of animal health, disease control, and animal welfare (Animal Health and Livestock Services Act, 2055 (1999), 1998).

4.14 The Environment Protection Act, 2019 (2076)

The act was put forward to amend and consolidate existing environmental protection legislation to protect each citizen's fundamental right to live in a clean and healthy environment, provide victims with compensation from polluters for any damage caused by environmental pollution or degradation, and maintain a proper balance between environment and development, mitigate negative environmental impacts on the environment and biodiversity, as well as to meet the challenges posed by climate change, the Federal Parliament has passed this Act (The Environment Protection Act, 2019 (2076), 2019).

4.15 Food Act, 2023 (1967)

The Food Act First Amendment was made in 2030 (1974) and was authenticated on 2030.12.11 (24 March 1974). Food Act Second Amendment was made in 1991 and was authenticated on 2048.2.21 (4 June 1991). Similarly, Food Act Third Amendment was made in 1992 and was authenticated on 2049.7.6 (22 October 1992). The act was developed to make legal provisions to maintain proper standards of foodstuffs and to prevent any undesirable adulteration in foodstuffs, as well as to prohibit reducing or extracting any natural quality or utility from foodstuffs to maintain the general public's health and convenience. With the advice and agreement of the Rashtriya Panchayat, His Majesty the King Mahendra Bir Bikram Shah Dev has enacted this Act. This Act may be referred to as the "Food Act of 1966." An Act to control food quality (as defined in Section 2) and to prevent food adulteration. Section 2 defines "contaminated foodstuffs," and Section 3 makes it illegal to manufacture, sell, or distribute such foodstuffs. Section 4 forbids the sale of foodstuffs that have been incorrectly labeled or otherwise described. Such food may be seized under segregation. Food production, sale, storage, and other activities necessitate the acquisition of a permit. Retailers who sell sealed food supplied by licensed producers or wholesalers do not need a license. The government may establish a Food Standard Fixation Board to establish food standards (sect. 9). Other provisions of this Act address liability for offenses (sections 5 and 6), food testing (section 8), and legal proceedings (Food Act, 2023 (1967), 1992).

5. CONCLUSION

In Nepal, no specific legislation on aquaculture production and development has been drafted or implemented. This is a major concern for entrepreneurs and the industry. The country's aquaculture production potential and its market potential elsewhere in the context of the World Trade Organization (WTO) have emphasized the need for proper legislation and capacity building for the sector's long-term growth. The importance of and need for fisheries resource conservation in the country was recognized much earlier. The Aquatic Life Conservation Act 1961 – "JAL CHAR SANRAKSHAN AIN – 2017" was passed, but it could not be implemented for a long time. In 1999, the Act was reviewed and changed. It addressed critical issues such as the Act's scope and the definition of various terms. Other aspects of aquatic life and conservation included restrictions on killing and capture methods, punishments, citizen

obligations, the role and responsibility of local authorities and technical authorities, and so on. The Act, however, is not yet in effect because laws and regulations are being approved by His Majesty's Government of Nepal. The current fisheries development policy objectives include: increasing aquaculture productivity through commercialized and diverse operations, conserving economically important indigenous fish species through improved management, and improving fresh fish marketing. Aquaculture development in Nepal has been encouraging, but some issues must be addressed to achieve long-term sustainable goals. Production areas and target groups; technological interventions on production and productivity issues; water supply systems and management; and fish seed supply and management are among these issues.

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