

EDITORIAL:
Human Rights Approaches to Governing Fisheries

Edward H. Allison

The WorldFish Center, Malaysia, and School of International Development, University of East Anglia, United Kingdom
e.allison@cgiar.org, e.allison@uea.ac.uk

Björn Åsgård

Swedish Board of Fisheries, and Ministry for Rural Affairs, Sweden

Rolf Willmann

Food and Agriculture Organization of the United Nations, Italy

What have human rights got to do with sustaining fish stocks, the flow of economic and nutritional benefits from fisheries, or supporting fishing-dependent societies and cultures? These questions have often preceded our attempts to explain why we think a human rights approach has something useful to offer to the current policy reforms aiming to sustain viable fisheries and enhance their contribution to human wellbeing. To many people, a mention of human rights evokes images of struggles for the right to speak freely without fear of arrest or torture, the right to a fair trial, or the rights of minorities. Human rights, however, are about more than political and civil rights, they also include a bundle of “economic, social and cultural rights” which include rights to food, water, housing, and decent work, and the rights of children, migrants and women. Each of these rights has a legal framework supporting it, which forms the international architecture of human rights law. States that have signed and ratified these international agreements are therefore bound to do their utmost to uphold the rights of their citizens, to whom they are answerable as duty-bearers.

The “rights-based approach” to development argues that human rights are integral to development outcomes, as international human rights norms highlight the freedoms and capabilities of each individual, essential components of the human side of development. Affirming the rights of the poor to a decent standard of living, to work, healthcare and an education, also establishes a legal and moral basis for development efforts and enables the prioritization of alternative investments or policy options based on how effectively they contribute to the fulfillment of human rights. An analysis of civil and political rights, moreover, offers an opportunity to assess the power relations that influence people’s livelihood options and that might hinder sustainable development. In its application to natural resource management, a human rights-based framework draws attention to the institutions and power structures that determine resource allocation and access. Human rights advocacy for establishing access rights to a natural resource for the poor, as a part of their right to a livelihood, represents a legal and moral claim that cannot be easily ignored.

This special edition of MAST brings together contributions on these human rights perspectives and approaches as applied to fisheries. The papers are written by academics, activists and international development agency workers. In fact, some of the contributing authors and editors defy these categorizations and all have maintained personal and professional networks across the interfaces between research, management and development, policy and activism.

The origins of this volume lie in a process of engagement with international fisheries policy, conducted through the UN Food and Agriculture Organization's (FAO) Committee on Fisheries (COFI). COFI is the main biennial forum through which the 192 FAO member states guide and endorse the work programme of FAO's Fisheries and Aquaculture Department. For some years FAO has been developing a special programme of work on small-scale fisheries and in 2005 it published a set of technical guidelines and an accompanying review paper on ways of increasing the contribution of small-scale fisheries to poverty alleviation and food security (FAO 2005; Bene *et al.* 2007). The guidelines and review were part of a programme to guide FAO member states in implementing the FAO Code of Conduct for Responsible Fisheries (FAO 1995), which makes special provision for the support of small-scale fisheries. These initiatives came in recognition of: the continued importance of small-scale fisheries globally; the lack of attention paid to governance and development issues in small-scale fisheries relative to larger-scale, more industrialized ones; the resultant persistent poverty and social exclusion among fisherfolk; and incidents of clear violations of human rights in the sector, such as the use of forced (slave) labour and child labour on fishing boats. At the twenty-seventh session of COFI, March 2007, the FAO Secretariat tabled a paper on 'Social issues in small-scale fisheries' (FAO 2007). Concerns about 'social issues' in small-scale fisheries were by this time becoming better known: income and asset poverty; vulnerability to climate variability and other drivers of change; exclusion from decision-making on river and lake-basin management and coastal land use; lack of recognition in development planning; limited access to social services and infrastructure; and political marginalization had all been identified as problematic elements of small-scale fishery systems, to a greater or lesser degree, and had been summarized as an output of an FAO Expert Consultation Process (Bene *et al.* 2007). The innovation of the 2007 COFI paper was to re-frame these issues in the context of economic, cultural and social rights, and to suggest that FAO and its member states should make use of the existing legal and policy framework of human rights instruments to address them. FAO member states had just adopted the Right to Food Guidelines which is considered a first attempt by governments to interpret an economic, social and cultural right and recommend specific actions for its realization. Furthermore, they represent a step towards integrating human rights into the work of agencies dealing with food and agriculture. The paper on social issues was therefore an extension of the rights-based approach to the fisheries sector. The International Collective in Support of Fishworkers (ICSF) and representatives of national fishworkers' organizations, attending as observers, were supportive of this rights-based approach being tabled officially at COFI, having themselves for many years used human rights language and instruments to pursue their campaigns in support of fishery sector workers. Their own process

of regional consultations with fishworkers' organizations, in 2007 and 2008, mobilized the voices of small-scale fisherfolk in a series of human-rights based declarations, culminating in a civil society statement in Bangkok, in October 2008 delivered at the global conference on small-scale fisheries (ICSF 2008). The COFI agenda item on social issues attracted a record number of interventions by delegations, with some governments clearly welcoming the increased focus on rights and welfare of fishing people, while others emphasized a more narrow focus on fishing access and use rights to improve fisheries management. The somewhat controversial debate pointed to the need for a forum at which these issues could be discussed in greater detail. Thus, COFI endorsed a proposal of the Norwegian delegation for the convening of a broad-based international conference focussing specifically on small-scale fisheries. Co-organized by FAO and the Department of Fisheries of Thailand, the global conference on securing sustainable small-scale fisheries – Bringing together responsible fisheries and social development, was held on 13-17 October 2008 in Bangkok, Thailand, in collaboration with the South-east Asian Fisheries Development Centre (SEAFDEC) and The WorldFish Centre. The conference brought together 280 participants from 65 countries including fish workers, fisheries managers, social scientists, government officials, representatives of professional associations, NGOs and other civil society organisations, the private sector, and international and regional development partners and agencies (FAO 2009). The outcome of the conference was welcomed by COFI 2009 and was succeeded by a series of regional level consultations in 2010 structured around three main themes: (i) good governance and rights-based approaches; (ii) application of the ecosystem approach to fisheries (EAF); and (iii) the application of disaster risk management (DRM) and climate change adaptation (CCA) to reduce vulnerability of fishing communities to disasters and climate change. Gender was given particular emphasis as a cross-cutting theme as well as overall human rights principles (FAO 2010a, FAO 2010b, FAO 2011a, FAO 2011b). There was strong support in the consultative processes for the creation of an international instrument on small-scale fisheries to complement the Code of Conduct for Responsible Fisheries. This was positively received by COFI 2011 which agreed that the new instrument should be voluntary guidelines that are addressed to both inland and marine small-scale fisheries, draw on relevant existing instruments and focus on the needs of developing countries.

The papers in this volume all arise directly or indirectly from the 2008 Bangkok conference, in which all the contributors participated as speakers or thematic discussion leaders. They represent some, but not all of the wide-ranging discussions at that meeting (FAO 2009) and incorporate reflections on what has taken place in the subsequent three years. This small collection of papers therefore represents a first critical examination of the attempts of different actors in fisheries governance to incorporate human rights approaches in policy reform and development action in the fisheries sector. We hope they will spur further exploration of the topic by scholars, and encourage consideration of human rights principles by those who are leading governance reform in the sector. Civil society groups campaigning for change in the sector, such as ICSF and the Environmental Justice Foundation, are already employing human rights approaches.

The first paper in this volume, by Bjorn Hersoug, surveys the adoption of rights-based fishing – understood in the fishery sector as a transition from *de facto* open access regimes to various defined access and use rights – and asks how such transitions might impact on those who are poor and vulnerable. Hersoug is rightly skeptical of each new proposed miracle solution to the complex, contextualized problem of fisheries governance reform – whether it be individual transferable quotas, marine protected areas, or human rights approaches. His overarching question and challenge to those tasked with the duty of fisheries governance reform: how do you grant fishing rights to the right people? The adoption of a human rights lens, and other development-orientated frameworks such as human needs or wellbeing, can help ensure that fisheries sector reform fits with societal priorities and institutional realities. He illustrates the outcome of sector reform on fisheries in Norway, and uses it to assess the on-going transformations to rights based fishing in a range of developing and transitional economies, including Vietnam and Mozambique. His paper provides an important bridge between the technical and economic considerations of sector-based governance reform, and the wider concerns for the sector’s contribution to human wellbeing and economic development.

To what extent is the human rights-based approach already being applied in fisheries? Two papers in this volume present the work of scholars and activists who have already been applying a human rights approach in the fisheries sector. First, Chandrika Sharma makes a persuasive moral argument for championing the cause of small-scale fisherfolk, and for doing so using a human rights approach. The organization she represents, the International Collective in Support of Fishworkers (ICSF) has been working for over 25 years with fisherfolk organizations in both the ‘north’ and ‘south’ to support their struggles for recognition in development processes that often exclude them, and, in the last 16 years, to uphold the rights of preferential access to resources in inshore waters, as enshrined in the 1995 FAO Code of Conduct for Responsible Fisheries (FAO 1995). Sharma reviews the international legal framework on human rights and identifies how its provisions can be used to hold duty-bearers (usually state representatives) to account for failures to support or enable citizens’ rights to political, civic, economic, social and cultural rights. She addresses some of the major areas in which human rights issues intersect with fisheries governance – for example the rights of women, rights to livelihoods and decent work – and indicates how such rights have been fought for by fishing communities around the world.

One of the 20th Century’s most prominent struggles to uphold human rights took place in South Africa, which held its first democratic elections in 1994, bringing state-sanctioned racial discrimination – illegal under international human rights law – to an end. The struggle to achieve equal rights for the disempowered black majority in South Africa continues, and Moeniba Isaacs here describes policies to broaden access to marine fisheries, supported by a government initiative for Black Economic Empowerment (BEE) took place in the context of a prior pursuit of a fishery management system built around individual transferable quotas (‘rights-based fisheries’). Isaacs argues that the allocation system failed to recognise and protect the historical and cultural rights of the artisanal

and small-scale fishers to practice their livelihoods. The fishers left out of the ITQ system organised to defend their socio-political right to practice their livelihoods and launched a class action case against the rights allocation policy. The struggle for social justice continues, and Isaac's paper accompanies South Africa's artisanal fisherfolk on their quest for justice, vividly illustrating how the adoption of a human rights-based approach impacts on policy and management in the fishery sector.

Isaac's paper demonstrates clearly that human rights are usually secured only through political struggle and legal challenge mounted by those whose rights are not being upheld, and that confronting entrenched structures of power – whether through direct action, legal challenge or political lobbying – is essential and inevitable. This is an uncomfortable thought for many people working in development and fisheries governance, and other technocratic spheres of development practice. Adopting a human rights-based approach means enabling challenges to the structures of power that produce and reproduce social and economic disadvantage. It means seeing development as an ultimately political issue not just an economic one. A key message from applying the human rights approach to development is that it will take more than the current mix of charity, technical assistance and capacity-building to substantially reduce poverty in the world's coastal and riparian zones. There is a danger that the current adoption of human rights language by many development agencies simply diffuses this threat to the status quo by appropriating and devaluing the concept, adding it to good governance, empowerment, participation and gender equity as issues that can be 'mainstreamed' and rendered harmless or invisible by doing so (Uvin 2010). We strive to avoid becoming part of this problem.

Mindful of the caveat above, how might rights-based approaches be more widely recognized and promoted? To what extent can they inform, guide and strengthen the international frameworks through which state actors and their partners participate in governing the activities of their citizens who fish for a living? Tony Charles addresses these questions by exploring the interconnections between fisheries management and policy reforms, attempts to construct an open and fair global trading system, and attempts to address the issue of subsidies. Charles examines how applying a human rights lens to these issues in small-scale fisheries in developing countries can help identify policy and management options that can uphold the human right to food, and thereby contribute to meeting millennium development goals on poverty and hunger reduction. His application of human rights principles to the issue of subsidies also helps to refocus the agenda to incorporate a focus on human development implications, rather than just on the environmental costs of subsidies. His analysis of the interplay between policies on trade, the right to food, and food sovereignty are particularly pertinent and timely, with the return of food security to the top of the international development agenda.

The special issue concludes with an overview by Edward Allison of the potential benefits, costs, risks and impediments to explicitly adopting a human rights approach to fisheries governance, again with special reference to small-scale fisheries in developing countries. Allison tries to dispel some common

misconceptions about the rationale and potential impact of adopting a human rights approach – such as arguments that it will necessarily tie up fisheries governance in expensive legal procedures, that it is a ‘western’ preoccupation, or that it is an aspiration of no practical value in resource-poor, capacity-deficient settings. His conclusion, drawing also on the writings of the other contributors to this volume, is that the adoption of a rights based approach can add meaning and urgency to the rhetoric on empowerment, participation, poverty eradication, food security, wellbeing and wealth generation that pervades the discourses of fisheries governance and development. He contends that human rights approaches can bring to bear an existing set of policies and governance instruments which fisherfolk themselves can use to help secure their access to social justice, decent work, and to lives with dignity and meaning.

We do not argue that fisherfolk deserve special consideration over others (that would be a contravention of human rights principles). Nor do we argue that they should achieve rights to livelihood at the expense of sustainability (that would undermine the rights of future generations) or at unacceptable costs to biodiversity. We suggest consideration of a human rights approach because there are frequent violations of rights in the fisheries sector and because we understand that fisherfolk with insecure basic human rights make ineffective defenders of fishing rights and participants in fisheries management (Allison *et al.* 2011). So, fishing rights and human rights are interlinked and this volume makes a case for giving a broader meaning to the term ‘rights-based fishing’ and to implement an architecture of fishing rights that balances environmental sustainability, economic efficiency, and human wellbeing. Thus, securing human rights is both a desirable end in itself and a means to progress towards sustainable development. Moreover, as this collection of papers illustrates, human rights approaches are already being adopted by civil society organizations in the fisheries governance and development arena, and are making their way into some government fisheries policies. The FAO consultative processes have expressed support for an international instrument on small-scale fisheries that would explicitly be guided by existing human rights instruments (FAO 2010a, FAO 2010b, FAO 2011a, FAO 2011b), such as the Right To Food, the Right to Decent Work and Rights of the Child. It is hoped that this special issue will inform the instrument and contribute to upholding of human rights of small scale fisherfolk and fishworkers in general.

Acknowledgements

We thank the editorial team at MAST and the team of referees for their patient and supportive handling of the manuscripts published here. We persuaded them that there was value in bringing a diversity of non-academic voices into MAST for this issue, and they enthusiastically concurred. Likewise, we thank the authors for their willingness to adapt to a style of writing that may not be the one they normally use in their professional lives. We hope we have struck the right balance between the rigour of conformity to academic norms and the powerful testimony of the authors’ own voices.

We would also like to thank the participants, co-organizer, collaborators and sponsors of the 2008 Bangkok conference, and the 2010 regional workshops – especially colleagues and friends at FAO, the CSO community and governments who have made these events possible and as fruitful as they have been. Thanks also go to Blake Ratner, Christophe Béné and Neil Andrew of the WorldFish Center, for discussions that have shaped our thinking on these issues. Financial and institutional support for the research was provided by the WorldFish Center programme on Policy, Economics and Social Sciences, as well as the Swedish Fisheries Board and the Swedish Agency for International Development Cooperation.

The opinions expressed do not necessarily represent the views of either FAO or its Members, SIDA or the Swedish Board of Fisheries or The WorldFish Center.

References

- Allison, E.H. *et al.*
2011 Rights-based fisheries governance: from fishing rights to human rights. *Fish and Fisheries* doi: 10.1111/j.1467-2979.2011.00405.x
- Béné, C., G. Macfadayen, E.H. Allison
2007 Increasing the contribution of small-scale fisheries to poverty alleviation and food security. *Fisheries and Aquaculture Technical Papers* 481, FAO, Rome, 141 pp.
- FAO
1995 Code of Conduct for Responsible Fisheries. Food and Agriculture Organisation of the United Nations, Rome, Italy.
- 2005 Enhancing the Contribution of Small-Scale Fisheries to Poverty Alleviation and Food Security. *Technical Guidelines for the implementation of the Code of Conduct for Responsible Fisheries*, No 10, FAO, Rome.
- 2007 *Social Issues in Small-Scale Fisheries. Report prepared for twenty-seventh session of the Committee on Fisheries (COFI)*, 5 - 9 March 2007. COFI/2007/6. Food and Agriculture Organisation of the United Nations, Rome, Italy.
- 2009 *Report of the Global Conference on Small-Scale Fisheries – Securing sustainable small-scale Fisheries: Bringing together responsible fisheries and social development*. Bangkok, Thailand, 13–17 October 2008. FAO Fisheries and Aquaculture Report No. 911. Rome. FAO. 190 p. [Available: http://www.4ssf.org/docs/Final_report_4ssf.pdf]
- 2010a *Report of the APFIC/FAO Regional Consultative Workshop “Securing sustainable small-scale fisheries: Bringing together responsible fisheries and social development”*, Bangkok, Thailand, 6-8 October 2010. FAO Regional Office for Asia and the Pacific. RAP Publication 2010/19
- 2010b *Report of the Latin America and Caribbean Regional Consultative Meeting on Securing Sustainable Small-scale Fisheries: Bringing Together Responsible Fisheries and Social Development*. San José, Costa Rica, 20–22 October 2010. FAO Fisheries and Aquaculture Report. No. 964. Rome.
- 2011a *Report of the Africa Regional Consultative Meeting on Securing Sustainable Small-scale Fisheries: Bringing together Responsible Fisheries and Social Development*, Maputo, Mozambique, 12–14 October. FAO Fisheries and Aquaculture Report No. 963. Rome, FAO. 2011. 68p.
- 2011b *Discussion document: towards voluntary guidelines on securing sustainable small-scale fisheries*. FAO. Rome.

ICSF
2008

Bankgok Statement on Small-Scale Fisheries. Civil Society, Workshop, Bangkok, Thailand, 11 to 13 October 2008 (Convened by the International Collective in Support of Fishworkers). [available: <http://sites.google.com/site/smallscalefisheries/statement> (accessed 5th October 2011)]

Uvin, P.
2010

From the right to development to the rights-based approach: how 'human rights' entered development. In: A. Cornwell and D. Eade (Eds), *Deconstructing Development Discourse: Buzzwords and Fuzzwords*, Oxfam, Oxford, U.K, 163-174.