

Comments on the Green Paper for the reform of the Common Fisheries Policy

Copenhagen, 27 December 2009

Dear Mr. Borg

These comments express the views and concerns of three Danish organisations working with small-scale fisheries in Europe, Asia and Africa. The organisations are Africa Contact, Danish Society for a Living Sea and People Uniting and Generating Aid for Development (PUGAD).

We strongly agree on the Commission's perception that the overcapacity in the European fishing sectors constitutes a deep rooted problem and is the primary cause to overfishing. While the Green Paper refers to vast overfishing in EU waters as a result of this overcapacity, we also stress the severe, negative impacts on marine environments outside the EU territorial waters. Overfishing by European fishing companies in West African waters is well documented, and the consequences include loss of livelihoods for millions of people in small-scale fishing communities, severe food insecurity, social and economic depreciation, and in consequence migration. The exodus of people from African fishing communities must be addressed as a human rights issues in the context of reforming the CFP.

Approach to promote small-scale fisheries

We acknowledge and welcome the proposal of implementing a differentiated fishing regime to protect small-scale coastal fisheries. The social, cultural and economic characteristics of small-scale fisheries are fundamentally different from the large-scale industrial fisheries, and the management of small-scale fisheries therefore requires a different and specific approach. Of paramount importance in this approach is that the CFP defines participation of people from small-scale fisheries as a key principle. It is through participation with those people involved in the actual small-scale fishing activities (including land based activities), that small-scale fisheries will thrive and lead to overall environmental, social and economic sustainability. As such, the CFP must entail the key principles that will guide the process of continuously shaping the management systems of small-scale fisheries, including the defining of how a differentiated approach can work in practice; what management mechanisms should be applied; and how to ensure women's role in fisheries.

The Green Paper asks whether a transferable rights regime could be a solution to the overcapacity problem. The implementation of a transferable rights regime in small scale fisheries is likely to have a negative effect in coastal communities, and the small scale sector should be protected from such a management system. Experiences from countries like Iceland and Denmark show that transferable rights lead to a quick concentration and monopolization of fishing activities in a few big harbours, and consequently closing down of fishing activities in many other coastal towns. The cost of this, in terms of job training and economic support during unemployment, should be considered and taken in to account. Furthermore, it leads to indebtedness and depreciation of social capital.

The diverse nature of small-scale fisheries - both in terms of use of equipment, species caught, processing and marketing, and women's roles – makes it clear that the approach to small-scale fisheries must accommodate these differences. In practice, it becomes necessary to decentralise the management systems and establish institutions at the national provincial levels with the capacity to engage with representatives of small-scale fisheries. As such, the CFP must define the overall framework for the management of small-scale fisheries and ensure that this framework allow for a differentiated approach within the European small-scale fisheries.

While we agree that it is a necessity to define small-scale fisheries in terms of their links to coastal communities, we again stress the importance of engaging in dialogue with people involved in the

actual small-scale fishing activities, including land based activities and in particular with women. The Commission will have to engage intensively with small-scale fisheries during 2010, in order to ensure that a definition is agreed upon together with representatives from small-scale fisheries. Implicit herein is the need for the Commission to ensure that consultation is NOT limited to the act of providing written comments to the Green Paper or to the implementation of a few workshops with representatives from small-scale fisheries. The Commission must ensure that the process reaches further and that representatives from small-scale fisheries, who may not be part of empowered organisations or lobbying bodies, also influence the process. To meet this end, we recommend that the EU provide funding for small-scale fisheries to become better organised and strengthen the capacity to engage in fisheries management and policy issues.

The external dimension of CFP

We strongly agree that “The external fisheries policies should better take into account in the food security strategies of the third countries”. However, this is not achieved by setting the core objective of promoting responsible and sustainable fisheries. Instead, we recommend that the core objective of the external dimension of the CFP should pay close consideration to social and environmental justice in third countries. Implicit herein, is the need for an external policy that enables social and economic development in small-scale fishing communities in third countries and thereby contribute to responsible and sustainable fisheries. It is now extremely clear, that EU vessels and foreign flagged vessels owned by the European fishing industry fishing in the EEZ of third countries have a significant, negative impact on fish stocks and the ability of small-scale fisheries in third countries to thrive. Fisheries Partnership Agreements as well as the Economic Partnership Agreements serve economic interests of the EU in general and the EU fishing industry in particular, at the expense of millions of people from third countries. As such these agreements have a detrimental negative impact, and clearly counteracts the Millennium Development Goals.

Furthermore, the European owned fishing vessels operating far from European waters use many times more fuel per tonnes of fish caught compared to the local, small-scale fishing sectors. The presence of European fishing interests in third countries thus contribute significantly to high levels of carbon dioxide emissions and further increase the European carbon foot print.

FPAs, in their current form, does not provide any solutions to sustainability beyond EU waters. Contrary, by entering new FPAs, the EU further subsidises a social, economic and environmental unsustainable fishing industry.

We recommend a complete stop of entering into new FPA and EPAs with third countries, until such time where policies take due consideration and prioritises the principles of social and economic justice and low levels of carbon dioxide emissions.

We recommend that the current FPA and EPAs become more transparent, and that all information related to these agreements become available to the public, including the ongoing evaluations of the agreements.

To answer the Green Paper's last question on the External Dimension; “How could the potential of small-scale fisheries in third countries for sustainability, ecological and social benefits be enhanced?”, we refer to the current situation in the Kenyan and Somali coastal waters. In these waters, local small-scale fishers catch up to 50 times more fish than just a couple of years ago because the foreign fishing fleet has left the waters. As a direct result hereof, local communities experience economic and social development and significantly improved food security. In short, the absence of a foreign fishing fleet is one of the most significant contributions to the Millennium Development Goals in these regions.

Trade and Markets – from catch to consumer

While we welcome eco-labelling initiatives, we have witnessed how fuel heavy fisheries that uses environmentally damaging fishing practises have been certified as “environmentally sustainable” (i.e. the Marine Stewardship Council). In general, it is the large-scale fishing sector that has benefited from labelling schemes. This has strengthened the large-scale sector's position at the European markets, and indirectly so at the expense of the much more environmentally sustainable small-scale fishing sector, which uses considerable less fuel per tonnes of fish caught and applies more nature friendly fishing gear.

We recommend that the EU prioritises green policies and support the European small-scale fisheries in terms of improvement of its level of organisation; preferential access rights to the near shore (the extend in nautical miles should be agreed upon with the small-scale fisheries); and social and economic rights.

We furthermore recommend a complete stop of subsidies, direct and indirect, to the large-scale fishing industry. This would lead to enhancement of the more cost-effective fishing units, which in general are the fishing vessels that uses little fuel consumption per tonnes of fish caught. Furthermore, it would lead to more localised marketing and thus an additional reduction in the EU carbon footprint. This would also fulfil today's consumer requirements.

Our final comments on the CFP Green Paper are contained as recommendations in the conference report ”Solutions to the Fisheries Crisis - a Report on Small-scale Fisheries, Trade Agreements, Corruption, and Fishers’ Organisation.” which was authored jointly between Africa Contact, PUGAD, and small-scale fisheries experts from Kenya, South Africa, India and the Philippines. Besides from the recommendations on page 4 the report also contains analysis and recommendations on Corruption in Fisheries, Fisheries Partnership Agreements, the Rights Based Approach and organisation of small-scale fishers. These are also important contributions to the CFP reform process that must be taken into consideration.

We hope you find our comments useful.

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Solutions to the Fisheries Crisis

A Report on Small-scale Fisheries, Trade Agreements,
Corruption, and Fishers' Organisation.



**WE HAVE
A RIGHT TO
RETAIN OUR
TRADITIONAL
FISHING
CULTURE**

Recommendations and papers presented at the conference
on small-scale fisheries in Copenhagen, September 12, 2009



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Edited by Carsten Pedersen, Africa Contact and Einer Lyduch, PUGAD.



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Acknowledgement

This conference is a result of years of cooperation with fisher people from South Africa and the Philippines. It is through discussions with our partners from these countries that we have learned about small-scale fisheries and the livelihoods of fisher people. Endless conversations with people from the fishing communities have taught us about challenges and solutions for sustainable fisheries, including social and economic sustainability. First and foremost, we would like to thank the fisher people and our NGO-partners from the Philippines and South Africa.

We would also like to thank the Danish NGO Fishing Network (www.fiskeri.org) for continuous engagement and constructive cooperation, as well as the Danish Project Fund for co-financing the network.

In terms of shaping the agenda of the conference, we would like to thank International Collective in Support of Fishworkers (www.icsf.net) for valuable comments. Finally, we sincerely appreciate the commitment of the members of the European Parliament, Søren Søndergaard and Isabella Lövin, as well as our colleagues from India, Kenya, the Philippines and South Africa.

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RECOMMENDATIONS TO ADDRESS THE FISHERIES CRISIS

These recommendations are the outcome of a two day workshop held in Copenhagen, Denmark, 8-9 September, 2009. It is prepared by the Danish Fishing Network and representatives from the African Union Fisheries Division, the International Collective in Support of Fishworkers (India), Tambuyog Development Centre (the Philippines), Coastal Links (South Africa) and Institute for Security Studies (South Africa).

It is now widely accepted that global fisheries are in crisis. The European Union, the Food and Agricultural Organisation (FAO) of the United Nations, the World Bank, Civil Society, small-scale and artisanal fishworker organizations and researchers from all over the world have alerted us and predict enormous economic losses, depletion of fish and ecosystem degradation, increasing levels of food insecurity and increased poverty in the worlds' small-scale fishing communities.

To overcome this crisis it is imperative for decision-making bodies, particularly national and international governing institutions, to address the underlying problems. The following paragraphs provide some key proposals for addressing the above issues.

Fisheries Access (Partnership) Agreements between ACP countries and the world's biggest fishing nations, including the EU, China, Japan and the USA, have a significant negative impact in the world's fish stocks. The decline in fish stocks in ACP countries, primarily as a result of overfishing by foreign vessels, is having a negative impact on the potential for small-scale fisheries to thrive and develop. It is therefore imperative to reconsider and renegotiate the fisheries partnership agreements and change the objectives of these agreements from extracting the resources to achieving sustainable fisheries. Renegotiation must be more inclusive, and guarantee the participation of small-scale fishing communities and civil society organizations. Furthermore, it is crucial that only excess fish stocks are allowed to be harvested by foreign interests, in accordance with the UN Convention on the Law of the Sea, and that the precautionary principle is applied in the case of inadequate scientific information, in accordance with the FAO Code of Conduct for Responsible Fisheries. Finally, the financial compensation received by ACP countries has to accurately reflect the value of the resources harvested, and be used to assist small-scale fisheries to develop, while ensuring biological sustainability in fisheries.

Corruption in fisheries has received relatively little attention compared to other extractive industries- this despite the fact that various types of illegal, unreported and unregulated (IUU) fishing, are taking place in the marine waters of many developing countries, leading to overfishing and marine ecosystem destruction. In order to combat corruption and its negative effects, it is imperative to improve access to information. This will strengthen the capacity of civil society, encourage public accountability, and combat corruption in fisheries, particularly in ACP countries.

Small-scale fishing communities generally have little political power, and consequently have insignificant influence in decision making processes. The reason for this **de facto** exclusion of fishing communities in decision making processes is first and foremost because of the limited levels of mobilisation and organisation in small-scale fisheries. In order to achieve social and economic development and biological sustainability, it is crucial that national and international governing bodies create a conducive environment and provide the means for community members to mobilise and organise themselves.

Develop accurate accounting for depreciation of social and natural capital. A report by the World Bank (**Sunken Billions: The Economic Justification for Fisheries Reform**) states that half of the global fishing capacity could be scrapped with no effects on total catches. The report also states concern that some fishing nations "artificially inflate" GDP by depreciating natural capital. In order to change this economic paradigm there must be an accurate accounting of depreciation of natural, and social, capital in all fisheries sectors, so that fleet reductions target those sectors that most inhibit the recovery and appreciation of fish stocks and ecosystems. Where values are uncertain and risk is high, such risks must be priced into production costs.

At a fundamental level, any solutions pursued must be consistent with a **human rights-based approach**. Domestic and external fisheries policies, as well as development cooperation policies, must meet human rights obligations - civil, political, economic, cultural and social - and must have a special focus on currently disadvantaged populations, in particular small-scale fishing communities and women of these communities.

ABOUT SMALL-SCALE FISHERIES

On a global scale, approximately 40 million fisher people depend on fish resources for their livelihoods. The number of people who engage in pre and post harvest activities is very uncertain, however, a figure of three additional jobs per fisher seems like a conservative estimate according to the World Forum of Fisher People. Furthermore, the vast majority of these additional 160 million people working in the small-scale sector live in Asia, South America and Africa. Considering that each of these provide for a family of about 4 people, a total of around 640 million people are partially or fully dependent on small-scale fisheries for their livelihoods.

A small-scale fisher, in most instances, perceive him or her self as an artisanal, subsistence or traditional

fisher, or simply as a fisher. Small-scale fishing, can be perceived as fishing within a continuum from the collecting of intertidal resources to fishing from motorized boats capable of sailing many nautical miles offshore, spending several days at sea, and landing a few tonnes of fish in one trip.



Fisherman in India

PERSPECTIVES OF THE WORLD BANK AND THE UNITED NATIONS (FAO):

In a report by the World Bank (WB) and the FAO, it is stated that the world's marine fisheries contribute \$50 billion less than it could do to the annual global economy. This figure is equivalent to approximately 64% of the landed value of the annual global catch. The loss is attributed to overfishing and the vast overcapacity of the global fishing fleet, and it is estimated that half of the world's fishing fleet could be scrapped with no change in catch.¹ Rolf Willman, a senior fisheries officer at FAO, explains that one of the reasons for this state of fisheries is that fishing is poorly regulated.²

The WB and FAO report also states that fishing, in many instances, would not be financially viable if it were not for the subsidies. In this crisis of fisheries, there is less fish to catch, the fish available is generally of lower economic value, and the costs of chasing the fish are rising. The WB and FAO states that fisheries reforms are needed in order to escape the crisis and achieve sustainable fisheries. It requires political will to replace incentives for overfishing with incentives for responsible stewardship.

¹ The Sunken Billions, The Economic Justification for Fisheries Reform. The World Bank, Washington DC and FAO, Rome
² Rolf Willmann in an interview with BBC News.

THE FISHERIES CRISIS AND SOLUTIONS

Perspectives of Mrs. Nancy Gitonga, Senior Fisheries Advisor, the African Union

Fisheries agreements between the EU and ACP countries provides the European fishing fleet with access to the fish stocks of the ACP countries which in return receives a financial compensation of about 2 to 17% of the market value. The vast majority of fish is exported raw. And trade barriers diminish the opportunities for ACP countries to process and export fish products. The Fisheries Trade Agreements thus serves the financial interest of the EU at the expense of millions of African people.

To make matters worse, the African states hold very limited capacity to manage and control foreign fishing activities, and this is clearly reflected in the increasing levels of illegal, unregulated, and unreported (IUU) fishing that severely contributes to the overexploitation of fish resources.

African states must re-negotiate Fisheries Trade Agreements – provided that the state of the fish stocks allows for any foreign fishing to take place. Re-negotiation must be based on costs-benefit analysis which takes into consideration the social and economic impacts on small-scale fisheries. Civil society has to be included in order to fulfil the obligations in the Cotonou Agreement, and to ensure that the agreement becomes a legitimate deal between the citizens of ACP countries and the EU. Furthermore, the inclusion of civil society can greatly improve transparency, and eliminate the ability of money to corrupt and distort responsible decision-making processes.

Perspectives of the Institute for Security Studies, South Africa

Various forms of corruption, including bribe payments and embezzlement, is certainly one of the most important explanations for overfishing and the marginalisation of small-scale fishers. Yet, it is a topic that has received very little attention in fisheries management when compared to other extractive industries. There is a dearth of evidence, but widespread allegations include ministers and officials receiving bribes, as well as foreign countries using donor funds or the threat of their removal to ensure the access to fishing grounds. Lack of transparency and accountability makes it easy for governmental officials from the European Community and ACP countries to hide irregularities. The evaluations and audits of EU-ACP fisheries partnership agreements, for example, are not made publicly available, and as such civil society is denied access

to information that could point at poorly allocated or misspent funds.

In order to combat the fisheries crisis, it is an absolute necessity that governmental institutions and fishing companies become more transparent and accountable. Indeed, transparency and access to information is already promoted through several important international agreements on the environment and human rights, including the Rio Convention and the Aarhus Convention. There is therefore an obligation for stakeholders to ensure key information on licenses and financial flows are published. It is also critical that civil society in ACP countries receive support to build capacity and access information in order to promote democratic fisheries governance and achieve sustainable fishing.

Perspectives of the International Collective in Support of Fishworkers, India

A large proportion of the approximately 200 million people working in small-scale fisheries across oceans and continents are falling victims of the fisheries crisis. One of the key explanations for this victimisation is that the development in global fisheries over the last several decades has occurred without giving due consideration to the rights of fisher people. According to a large number of international and national binding, legal instruments fisher people should enjoy a variety of rights, including the rights to access the marine resources, to social and economic opportunities, and to participate in policy processes.

The UN Food and Agricultural Organisation has acknowledged that the adoption of human rights principles can help achieve poverty eradication and facilitate responsible fisheries practices. Civil society and a number of non-governmental organisations have also, for long, argued that the recognition of small-scale fishers rights is a key, not only to social and economic development, but also to sustainable fisheries.

It is imperative that the European Union, and particularly the Directorate-General for Maritime Affairs and Fisheries, take due consideration to the rights of the world's small-scale fishers in the process of reforming the European Common Fisheries Policy (CFP), and ensures that the excess capacity of the European fishing fleet under no circumstances is granted access rights to fishing grounds, where small-scale fishers operate and where fisheries is considered in crisis.

Perspectives of the Tambuyog Development Centre, the Philippines

The level of mobilisation and organisation among small-scale fishers all over the world does vary from one nation to the other, but by and large the sector remains powerless when compared to the financial fishing giants, international institutions and international environmentalist organisations – to mention a few. Keeping in mind that 90% of all the world's fishers work in the small-scale sector and account for approximately 50% of global wild capture catches, it is clear that sustainable fisheries can only be achieved if the small-scale fishing sector participates as an equal partner in decision making processes. The process of reforming the CFP is no exemption in this relation, and as such policies related to the EU fishing fleets' activities in ACP waters have to be negotiated with representatives of ACP small-scale fisheries. Furthermore, the EU, with its historical exploitation of ACP marine resources, is responsible for allocating funding in support of the mobilisation and organisation of small-scale fishers in ACP countries.

The Philippine case

Scenario: According to official statistics, 1.4 million Filipinos make a living as small-scale fishers. One out of three live in poverty and less than 15% of the fishers have finished high school. The small-scale sector remains very poorly organised, and the proportion of fishers organised in cooperatives is insignificant. As such it holds very limited political power. The government pays little consideration to small-scale fisheries, which is reflected in the minimal financial support that the sector receives. The portfolio of programmes that have succeeded in helping small-scale fishers to mobilise and organise is insignificant.

The long fight for political power: Keeping in mind that sustainable fisheries is a function of social and economic opportunities and development in small-scale fishing communities, it is imperative that this marginalised section of Filipinos is recognised and provided with support in order for fishers to mobilise and organise. Government must allocate financial resources, and fishers organisations must be invited to the tables of negotiation, if sustainable fisheries are ever to be achieved in the Philippines.

Perspectives of Coastal Links, South Africa

Traditional fishing communities in South Africa have gone through a long period of setbacks. In the late 90's government started implementing fishing policies based on quota legislation, and only the well connected fishers, and non-fishers, were successful in obtaining quotas. The fishing industry holds the vast majority of fishing quotas and thousands of traditional fishers have been denied access to the sea. The impacts on fishing communities have been devastating, with lost livelihoods, increasing levels of

crime, school drop outs, and gender violence as some of the consequences. Today, being a traditional fisher and making a life out of the sea in South Africa is like becoming a criminal.

Years of lobbying and advocacy work by Coastal Links, the strongest fisher movement in the Southern Africa, has brought about some positive changes, including the securing of interim fishing licences for one thousand traditional fishers. This most important victory proves that mobilisation and organisation of fishers is the way forward. In order to achieve sustainable fisheries, including sustainable livelihoods, it is necessary to provide support in terms of capacity building, training, and information sharing for small-scale fishing communities all over the world. This should also be a key priority of the European Union.

Climate Changes and Fisheries

The consequences of global warming are likely to be felt worst by small-scale fishers. The climatic variables of importance include warming of the upper layers of the ocean, sea level rise, reduced water flow, increased droughts, and increased frequency of storms. The risks for fisheries as a result of climatic variables are reduced production of marine fisheries, including impacts on the abundance of juvenile fish, changes in distribution of pelagic fish resources, reduced coral reef productivity, and destruction of coastal fisheries infrastructure.

Climate change is already causing and will continue to cause negative impacts on small-scale fishing communities. The majority of people making a livelihood of fishing already live in poverty, and with extremely limited financial resources available, it becomes almost impossible for these communities to adapt to the changes.

The small-scale fisheries are characterised by the use of low-tech fishing gear and low levels of fuel consumption. As such, the approximate 200 million people making a living off small-scale fishing are certainly not to blame for the high levels of carbon dioxide emissions, but they bear the burden of climate changes. The polluting industries, including the large-scale fishing industry, and the governments of the most polluting countries have to take full responsibility, reduce emissions, and mitigate the impacts of climatic changes. When it comes to the latter, it is imperative that those responsible for the climatic changes, including the G8 nations, implement mitigation programmes in ACP countries, including within small-scale fisheries communities. Furthermore, these programmes must be fully financed by the responsible nations.

FISHERIES AGREEMENTS

Pros and cons of Fisheries Partnership Agreements (FPA)

– Fisheries agreements between African countries and overseas states and/or companies: with particular focus on agreements with the EC

By Nancy Gitonga, Senior Fisheries Advisor, the African Union

Preamble

Developing countries contribute over 50% of the world fish trade. Net earnings of foreign exchange from fish trade, in developing countries have continued to rise contributing more than meat, tea, bananas and coffee put together. About 58% of fish consumed in the EU come from non-EU waters, mainly from developing countries. Fishing in the Exclusive Economic Zones (EEZ) of most developing countries is almost entirely conducted by Distant Waters Fishing (DWF) fleets from developed countries such as Japan, Spain and France, South Korea, China, USA and Chinese Taipei, with the developing countries receiving some financial compensation from these foreign fishing enterprises. Countries gain access to fishery stocks through access arrangements which may be: Government to Government access agreements, (as is the case between the EU and 16 developing countries); Government to Private Sector agreements (as is the case between Pacific Island Countries and Japan Tuna Association); Rights based licensing of firms that have local base in the host country (as is the case in Namibia); and Licensing (based on period, not catch levels) of foreign vessels without any specific access fishing policy (as in the case of Tanzania, Kenya). In general, according to an EU study (IFREMER 1999), financial payments for fisheries access agreements to developing countries ranges between 2 and 17% of the catch value, and financial compensations from tuna agreements are averaging at about 2.6%. This is a very small compensation level compared with other natural resources such as minerals, forestry and crude oil (usually 30%) and also bearing in mind that investment in fishing is much less compared to mining for example. Even though ACP countries are aware of these unfair compensation levels, they have so far been unable to bargain for better terms from the Distant Waters Fishing Nations (DWFN). The DWF fleets have a competitive advantage over local fleets from the subsidies advanced to them by their countries. This, together with high cost of money in Africa, may explain why there are very few locally owned industrial fishing fleets operating in the EEZs. Ideally fish from developing countries would be expected to be a tool for economic development if the law of supply and demand were to apply, but due to capacity disadvantage of the developing world, this opportunity has not been realized. The situation of the developing world especially Africa is exacerbated by the skewed Rules of Origin, where the fish harvested from ACP and EU waters belongs to the countries whose vessels conduct the fishing operations, so long as over 50% crew are EU or ACP nationals in substantive positions (Cotonou Agreement, 2004). This usually favours DWFNs more than

the resource owners. The African Countries tried to negotiate this under European Partnership Agreements but without much success. Thus although fish is harvested from the host African EEZ through the fishing Agreement (or illegally acquired), the fish belong to the nation that harvested it and not the nation from whose waters it was harvested. In general, it is the country seeking access that initiates the negotiations, rather than the host country seeking a buyer for its fish, often because the developing country rarely knows the amount of fish available for access. This anomaly is mainly due lack of capacity and political will to negotiate better terms, corruption, poor monitoring and surveillance capability, and lack of knowledge by African States on the real value of their



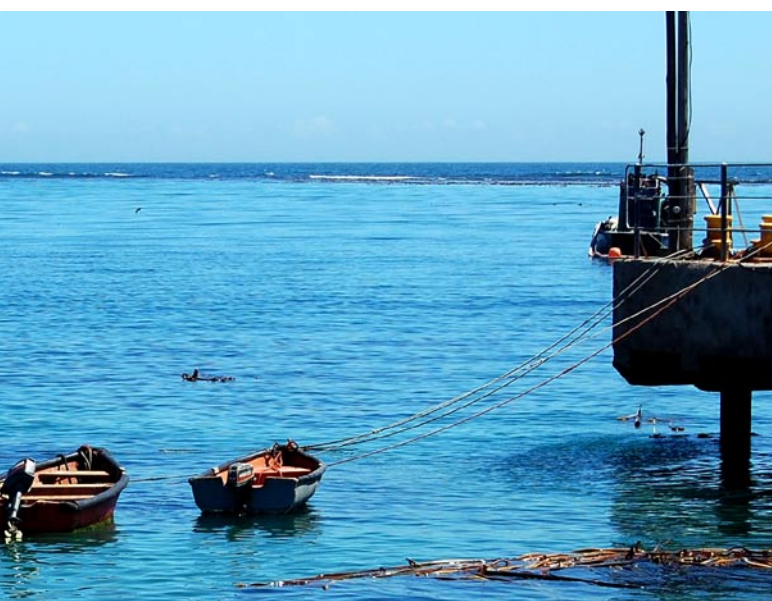
Fishingboats

fish. Many Distant Waters Fishing Nations do not regard payments made for access fishing as a trade, and the EU for example, refers to such payments as financial compensation. This therefore is a major distortion of international trade value chain in ACP countries.

Many developing island and coastal states do not benefit from value added activities associated with the DWF fleets because they do not have fishing ports. The fish caught in their EEZs is transhipped at sea, or landed in other regional countries, where

it generates value added revenue. The majority of the fishing access agreements have clauses requiring that locals be employed on board the foreign vessels, but unfortunately an enforcement mechanism is usually not included. Fisheries in developing countries will continue to make only marginal contributions to economic development unless these countries are able to bargain for fair value for its access.

Fisheries trade also suffers from restrictions targeted at value addition. Several markets impose tariffs that are punishing value addition and rewarding export of raw fish. This policy is aimed at using raw material fish to support employment in developed countries. This may be a legitimate right of buyers, usually justified by the limited capacity by developing countries to comply with the Sanitary and Phytosanitary (SPS) standards, but becomes morally unjustifiable when very little value is captured at developing countries level. The value chain of the processed fillets originating from developing countries is also quite distorted as the fish retailing at the consumer's outlets in the importing countries is usually about 3 times the price of the product paid to the exporting countries of the developing world. The net profit margins in developing countries are therefore very low, which leads to low prices for fishermen and which in turn encourages them to fish more to make ends meet and thereby threatening fisheries sustainability and promoting poverty.



Interventions

Processing and Value addition: The most beneficial position for host countries is to have all fish caught in their waters processed locally up to consumer unit levels. This would create employment, and shift significant value of the fish to the local level.

Governance issues: The exploitation of fish stocks in African waters is of vital importance to African socio-economies. Large-scale industrial fishing, artisanal or small-scale commercial fishing and even subsistence fishing together sustains millions of jobs,

provides food security to many more citizens and sustains entire coastal regions on the Continent. African fisheries governance is unfortunately characterized by a lack of reliable, up-to-date and transparent data, a lack of regional co-ordination, poor compliance with international best practices pertaining to responsible and sustainable fisheries management, a general inability to effectively patrol and protect exclusive economic zones and a lack of access to efficient and effective data management systems. There is little doubt that the greatest and increasingly documented threat to the current and future sustainability of African fisheries is the illegal, unregulated and unreported (IUU) fishing of African marine resources. This is particularly so because IUU fishing generally thrives where governance systems are weak and countries do not consistently implement domestic laws and policies, adhere to international agreements, and implement international law.

Effective Access Agreement negotiations: It is important that foreign access agreements are in compliance with the provisions of the United Nations Convention on the Law of the Seas (UNCLOS), specifically with regard to: Determining total allowable catch limits and set quotas for their fisheries in terms of the best available scientific evidence and take into account the impacts of these catch limits and quotas on the ecosystem; make available only the surplus allowable catch to be harvested by Setting out a framework of minimum terms and conditions as part of any agreement.

Total Allowable Catch (TAC): All agreements between the EU and African states refer to a reference tonnage (a set tonnage) that is to be caught by the foreign vessels. However, the reference tonnage does not resemble TAC or a quota allocated to individual boats, and vessels are allowed to catch as much as they can store. If the reference tonnage is exceeded, the fishing companies are obliged to pay a certain price per additional tonnage. As such, the agreements provide little mechanisms for sustainable fisheries management, and basically function a recipe for overfishing and irresponsible ecosystem and fisheries management.

In addition, there are no recorded or known cases of African coastal states having first consulted with domestic interested parties such as fishing organisations or NGO's and regional bodies and neighbouring states to determine the social, economic and ecological impacts or benefits of concluding a foreign access or partnership agreement. Clearly, these various bodies would require that any fisheries trade agreement should refer to a TAC, and that Control and Monitoring Systems should be in place in order to secure that foreign vessels do not overfish.

Negotiation Skills: Improvement of negotiation skills, to enhance negotiation in public and seek regional and domestic involvement to achieve a fair price and value. The negotiations for the harvesting of highly migratory species such as tunas and swordfishes require regional and sub-regional inputs in terms of UNCLOS so as to ensure that these stocks are responsibly managed. Involvement and participation by domestic and regional interested and affected parties ought to be considered. Transparency is crucial for added benefits to the communities of resource rich (but money poor) countries.

Transparency on earnings: Marine living resources are assets held by the state in trust for the benefit of the citizenry. The lack of accountability, exacerbated by the weak oversight mechanisms to ensure compliance with the terms and conditions of access agreements, has led to the Publish-What-You-Pay Coalition calling for the application of the Extractive Industries Transparency Initiative (EITI) to the fisheries sector as well. EITI is premised on the principle of establishing multi-stakeholder processes that ensure information flows on the revenues earned from extractive industries such as oil and mining.

Transshipments: All fish should be offloaded in a designated fishing port which has the resources to implement port state measures, record fish landings, has access to VMS data, enforce sanctions, process and store the offloaded fish. All on sea transshipments should be prohibited.

Recent developments

Termination of Agreements: Due to the extremely inequitable levels of financial compensation paid for access rights, the inflexibility of the European Union in adapting their terms and conditions, and the realization amongst some African governments that their marine living resources must be sustainably managed for the benefit of future generations, a number of African states have elected to not renew their fisheries agreements. In 2003, South Africa decided to terminate its bilateral tuna fisheries access agreements with the Japanese. In 2004, Angola refused to renew its EU fisheries agreement. In 2006, Senegal elected not to renew its EU fisheries agreement. This was significant as Senegal was the first African state to conclude a foreign fisheries access agreement in 1979.

Domestic Legal Provisions for Agreements: South Africa is the only known country on the Continent that has legislation that provides for access to information held by both the state and private actors. This type of legislation allows any person access

to government and private actor documents and contracts with certain limitations aimed to protect confidential commercial and classified data. In addition, South African law obligates state actors to consult widely with interested and affected parties before state officials can promulgate policies or alienate resources.

Conclusion

Because African states still lack the capacity to fully exploit their surplus stocks - assuming that these surpluses still exist- FTAs offer an interim opportunity to ensure a state income. However, the only way the agreements can contribute to achieving the Millennium Development Goals (MDGs), especially to end poverty and hunger and secure environmental sustainability, is to ensure that the EEZs' fish resources benefit local communities through transparently negotiated FPAs, where all key players, including Civil Society are involved. For this to happen it is imperative that the FTAs are renegotiated, and that transparency in the processes is ensured in order to eliminate the ability of money to corrupt and distort responsible decision-making processes.

African states must consciously find out if there is a need to conclude any form of the foreign access/partnership agreements taking into account the advantages and disadvantages earlier pointed out. Furthermore, it is important that African negotiation teams are equal in the skills and capacities to those of their counterparts. For this to occur, African states must invest seriously in reliable and up-to-date fisheries data, improving fisheries management and surveillance information systems, building negotiation capacity through training, and equipping negotiators to be able to negotiate at par with their counterparts. African coastal states must ensure that they fully understand and appreciate the complete cost-benefit analysis of the proposed access agreement. This includes the total ecosystem and social costs of harvesting the proposed quantities of fish by a foreign fleet versus the total financial, social, political, and biological benefits of the proposed agreement. Finally, access agreements should only be concluded on the strict condition that where necessary, the African state concerned must be provided with the resources to fully administer, manage and monitor fisheries activity in its waters to adhere with international and regional best practices, as well as international and domestic laws.



Fishermen in South Africa

CORRUPTION IN FISHERIES

By André Standing, Senior Researcher, Institute for Security Studies, Cape Town, South Africa

Introduction

Marine fisheries support the livelihoods of millions of citizens in Africa's coastal countries. However, throughout the continent, unsustainable fishing practices are threatening the long-term viability of marine ecosystems. If the stocks of fish in African waters continue to decline, the result will be highly detrimental, impacting on food security, poverty and human development.

To maximize the developmental potential of fisheries, democratic governance is a critical requirement. Yet the governance of commercial fisheries, particularly relating to industrial fishing by foreign boats supplying markets in Europe and Asia, is frequently undermined by a lack of transparency and accountability. In this environment, revenues from commercial fisheries can be wasted and fishing boats are allowed to break rules and regulations with impunity. Policy decisions can also be captured by domestic elites and foreign stakeholders to the detriment of local communities and small-scale fishermen.

In comparison to other resource sectors, corruption in fisheries has yet to gain the same level of scrutiny from researchers, civil society organizations and the international donor community. However, experience from these other sectors may help inspire necessary reforms in fisheries. In particular, there appear to be good reasons why initiatives such as the Extractive Industries Transparency Initiative could be replicated or extended to marine fisheries.

Africa's marine fisheries in global perspective

As with other natural resources, Africa's marine fisheries are increasingly in demand and are gaining in geopolitical importance. A major factor lies in rising global consumption of fish and fish products. World exports of fish and fish products (including farmed fish) grew by 9.5% in 2006 and by 7% in 2007, reaching US\$ 92 billion. China's remarkable economic growth is playing an important role; per capita fish consumption in China has risen from 5kg in the 1970s, to 26kg now. China looks set to overtake Spain as the world's third most important fish importing country, behind Japan and the US.

Rising demand for fish is occurring as fish stocks globally are in decline. The United Nations Food and Agriculture Organisation estimate that three-quarters of the world's available fisheries are either being fished at their maximum or are being over-fished, with only 1% being classified as recovering from over-fishing. Since the 1980s, global fish landings have decreased at a rate of

approximately 0.7 million tons a year, and fishing boats compensate by targeting smaller species or species that were previously not in demand.

Exacerbating this marine crisis is the difficulty facing many of the world's leading fishing nations to reduce capacity of their fishing fleets. Many developed countries maintain substantial subsidies, estimated at some US\$ 30-34 billion per year globally. Technological improvements in fishing add yet further problems, as sophisticated boats now have better devices for attracting fish and they have access to digital maps and powerful sonar systems that ensure very few areas of the ocean are left unexplored.

In this context, Africa's marine resources are gaining strategic and financial value. As fish resources elsewhere are decreasing and the demand and value for fish is steadily rising, there is a growing dependence by foreign fishing fleets, particularly from the EU and Asia, on gaining access to historically underexploited waters of developing countries. The growth in commercial fishing has been particularly high in West Africa where total landings of fish have risen from 600,000 tons in 1960 to 4.5 million by 2000.

In addition to private licenses and joint ventures, the fishing activities of foreign boats in African waters are often controlled by fisheries access agreements - contracts that permit a certain number of foreign boats to operate in a country's water in return for a lump sum, typically paid annually. For many countries, these access agreements represent considerable income, accounting for a substantial proportion of the operating budgets of fishing ministries. Some access agreements are signed between governments, others between host governments and private fishing associations and there are those agreements signed between host governments and inter-governmental organizations, most notably the European Union. In fact, in Africa it appears that EU fisheries access agreements are the most numerous and substantial, involving 17 African countries since the late 1970s.

At the same time as external pressures on African marine resources are mounting, there is also a growing need for marine resources in developing countries by indigenous communities and local fishing boats. The populations of coastal communities in numerous developing countries are expanding rapidly, and for millions of African citizens fish represents a low cost or free source of protein and subsistence income - a fact that is becoming more important given the global precipitous rise in the cost of food. However,

over-fishing and the prominence given to exporting fish by African states means Africa is the only continent where fish supply per capita is in decline. Per capita fish consumption in Africa is already low, roughly 6.5kg. Maintaining this level of consumption, given projections on population growth in the next 10 years, would require domestic fish production to increase by over 25%.

Competition between key fishing nations for access and control over the marine resources of developing countries is therefore joined by ever-greater competition between local communities and industrialized foreign fishing fleets. It is not surprising that due to these pressures, incentives for a range of illegal activities are raised, such as fishing in protected parts of the sea, using proscribed fishing gear, under-reporting catches and disregarding various conservation measures. One study commissioned by the UK Department for International Development (DFID) estimated the value of illegal fishing in Africa might be as much as US\$1 Billion each year. Many developing countries have very weak capacity to respond to unlawful fishing. Yet a failure to deal with illegalities places marine resources under further strain, meaning illegal fishing has become both cause and effect of decreasing fish stocks throughout the African continent.

Corruption and fisheries governance

Heightened competition for African fish, as well as considerable illegal fishing by commercial boats, suggests incentives for corruption are high in the fisheries sector. The following pages provide an introduction to the different ways in which corruption can manifest itself in fisheries' management and what the outcomes of this corruption may be.

Fisheries access agreements

In principle, fisheries access agreements can be a positive way of managing the surplus fish stocks of developing countries and they can deliver much needed foreign exchange earnings. Moreover, the money received from access agreements can be used to develop infrastructure to improve domestic management of fisheries and develop local fishing businesses. Indeed, the European Union has, for a long time, insisted that a portion of the revenue it provides to developing countries through access agreements is spent either on improving monitoring and surveillance capacity or is invested in the local small-scale fisheries sector. However, access agreements have generated considerable controversy, being blamed for systematic over-fishing and for undermining local fishing industries. The terms of these agreements can allow too many boats to operate in territorial waters and they often permit fishing activities that are not allowed in the seas of developed countries. Moreover, under some agreements, the rules controlling foreign fishing are less stringent than rules governing local fishing boats.

A further criticism of access agreements is their lack of transparency. The European Union now publishes the contents of its agreements with third countries, but in most cases the negotiation process is confidential, with no involvement from civil society or other domestic fishing stakeholders. Access agreements signed between host countries and Asian fishing associations or Asian governments remain completely private, meaning the public has



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no information on the scale and terms of these agreements, nor the sums being exchanged.

Lack of transparency, combined with the controversial terms of these agreements, has raised concern that forms of corruption occur during the negotiating stages. There is a dearth of evidence, but widespread allegations include ministers and officials receiving bribes and kickbacks, as well as foreign countries using donor funds or the threat of their removal to ensure the terms of agreements are favourable.

Corruption in the negotiating stages of access agreements is not the only concern. Some argue that access agreements can have an unintended consequence of undermining democratic governance. For example, revenues from access agreements may limit the independence of African regulators and policy makers, a tendency exacerbated where access agreements are linked to further loans and aid projects. A manifestation of this problem occurs when fishing boats operating under access agreements break rules and regulations. While there are cases suggesting foreign governments may apply diplomatic pressure to avert investigations and prosecutions, it may also be the case that the host state, wanting to protect diplomatic relations, may fail to respond with appropriate sanctions. In many African countries forms of illegal fishing by distant water fleets seem to be treated leniently and arrests of foreign fishing boats operating under access agreements are rare.

Dependence on access agreements may also encourage governments, or at least the ministry responsible for fisheries, to operate in ways that are not transparent or sensitive to local communities, particularly to small-scale or subsistence fishers. This may be more evident in those countries where a large portion of total government revenues from fisheries is derived from access agreements and, in comparison, state funding in the form of taxes and levies from local fishermen and coastal communities can be small or insignificant. In one examination of the impact of fisheries access agreements it was shown that significant improvements

in democratic fisheries policy has been observed where access agreements have been ended and greater government revenue has come from locally based fishing and processing as a result.

This corrosive impact on democratic governance may also undermine the public aim of using the fees from access agreements for capacity building of fisheries management and the development of small-scale fisheries. In many countries the funds from access agreements have not been used well and evidence of poverty reduction is hard to find. This concern is heightened where the host governments of access agreements are known to have a poor track record on human rights and democracy. Again, the disappointing legacy of funds from access agreements seems to be exacerbated by a lack of transparency and accountability. The EU conducts evaluations and audits of its agreements which should document instances where funds have been poorly allocated or misspent. Yet these audits are not made publicly available.

Conflicts of interests

Outside access agreements, corruption in the form of conflicts of interests appears to be a common problem. Senior officials and politicians, some of whom may be involved directly in fisheries management, simultaneously own private fishing boats, are partners in fishing and fish processing companies or operate as shipping agents.

Countries appear particularly vulnerable to conflicts of interests where domestic policies favour the establishment of joint ventures between foreign fishing companies and local businesses. The motivation behind this policy is to ensure increased value-added in countries, and to move away from a situation where developing countries merely play a passive role in the exploitation of their natural resources. However, whereas foreign partners in joint ventures are typically the ones to bring in capital, boats and fisheries expertise, a danger of this policy is that ideal local partners are those who offer political influence.

Where conflicts of interests exist, public officials may influence policy decisions and implementation for their own benefit. Moreover, where fishing boats are co-owned by senior officials, they may be free to engage in a range of illegal activities knowing that there is protection from arrest and investigations. For example in Angola, the EU and South African Development Council recently undertook a project aimed at increasing the capacity of marine surveillance and inspections. A research report noted that inspectors in Angola often failed to report irregularities due to the knowledge that boats were co-owned by politicians and public officials.

Widespread knowledge of conflicts of interests may undermine morale among public officials and inspectors, which may further limit their ability to police waters effectively. It may also be the case that, where senior officials are engaged in commercial fisheries, the capacity of law enforcement is deliberately kept low, with funding and training restricted and the most diligent inspectors being kept from senior positions.

Embezzlement of license fees

In the extractive industries of developing countries, a major source of concern appears to be the theft and misappropriation of state revenues. It has been argued that a lack of transparency and civil society oversight has facilitated this form of corruption. In comparison to other resource sectors, the accountability of state revenues derived from the exploitation of marine resources has not been scrutinized. However, revenues from fisheries can be substantial, and as is the case in other sectors, public access to information can be extremely limited. For example, in 2008, growing pressure on the government of Guinea to improve the governance of fisheries led to an official audit which revealed the country lost millions of euros due to various forms of fraud and theft by the ministry of fisheries. Similarly, a United Nations Expert panel investigating violations of the UN arms embargo in Somalia claimed that substantial revenues from commercial fishing have been paid into the personal bank accounts of warlords and have been used to fund civil conflict.

In addition to a lack of accountability and public oversight, a further characteristic of the management of fisheries that may encourage this form of corruption is that decisions on licensing are typically made by a single person, with very little involvement by others. This creates a situation where opportunities for fraud are high. Some experts have argued that multi-stakeholder committees could oversee licensing decisions and data on licenses and revenues could be published on the internet, as is the case in Papua New Guinea.

Corruption, bribe payments and illegal fishing

In the past decade, responding to illegal fishing in developing countries has been raised as a critical priority by African governments and international development organizations. Forms of illegal fishing seem to be an inevitable outcome of heightened competition for fish resources and overcapacity among the world's commercial fishing fleet.

Broadly speaking, most African states lack the capacity to effectively police their waters. However, it is now acknowledged that those developing countries that score better on proxies of good governance tend to be more successful at combating illegal fishing. Based on this view, the UK Department for International Development (DFID) has argued that, unless measures are put in place to improve governance and reduce corruption, support to African countries for improving their monitoring and surveillance of fisheries could have limited impact.

The relationship between corruption and illegal fishing is complex. Dependence on revenues and investments from foreign countries, as well as conflicts of interests, are two factors that may undermine or limit law enforcement and the effectiveness of marine inspections. In addition, it is also the case that law enforcement and prosecutions may be thwarted by bribe payments and the complicity of officials in crimes. For example, bribe payments and intimidation from foreign boat owners has meant African on board observer programmes have often failed to be effective. Corruption and bribe payments among marine inspectors and port officials

has also undermined investigations and has contributed to the fact that some ports—known as ‘ports of convenience’—are deliberately favoured by known illegal fishing boats. Finally, there have been several cases where officials and inspectors have abused their position of authority in order to undertake illegal fishing themselves. For example, in September 2007, Sierra Leone’s navy arrested eight officials and military personnel from Conakry/Guinea who were accused of entering Sierra Leone’s waters to conduct a ‘pirate’ attack on two licensed Chinese trawlers.

In studying the impact of bribe payments on illegal fishing, it is also important to recognize that bribe payments between officials and boat owners can also blur into forms of predatory rent-seeking. Thus, corrupt authorities may actively seek bribes and in doing so those fishing entirely legally can become victims. Those willing or able to pay bribes, even if they do so reluctantly, may gain competitive advantages over those who cannot afford bribes or who refuse to pay them. This, in turn, may ensure less responsible fishing companies succeed at the expense of others. Corruption and illegal fishing therefore become self-reinforcing.

Addressing corruption in fisheries

For the time being, corruption in fisheries has not been given sufficient attention by researchers, governments and international development organizations, at least not to the same extent as other resource sectors. Placing corruption on the international agenda is therefore a necessary first step in reforming the governance of fisheries and reducing the opportunities for corrupt activities.

As is the case in other resource sectors, the most effective and realistic way of combating corruption appears to be through strengthening transparency and accountability. In other words, the opportunities for corruption diminish where there is strong public oversight and access to information. In this respect, a critical area for reform in fisheries relates to the issuing of licenses and the negotiation of access agreements. Fisheries departments should be encouraged to publish details of license agreements, including information on payments, taxes and fines. Furthermore, it is vital that all information on access agreements is made public, which not only includes the agreements themselves, but also key reports and information on the spending of revenues.

Several experts have suggested that opportunities for corruption may also be diminished through changes to the way in which fisheries licenses and access agreements are negotiated. At a national level, multi-stakeholder committees could be employed to oversee licensing decisions, instead of this role being undertaken by a single official or department only. At an international level, African states could benefit from negotiating access agreements with foreign fishing nations collectively, rather than alone. This may not only diminish the opportunity for bribe payments and undue influence, but it could also strengthen the regional management of migratory fish.

For increased transparency and access to information to lead to improved democratic governance, the role of African civil society organizations is critical. Such organizations should be scrutinizing

access agreements, tracking court cases and monitoring government budgets, for example. However, few countries have strong civil society organizations that work on fisheries, and those organizations that do exist tend to lack capacity and training. Here it is important to consider initiatives such as the Publish What You Pay (PWYP) coalition, an international network of civil society organizations that has not only campaigned for increased accountability in the extractive industries, but also has taken an active role in training, information sharing and engagement in the Extractive Industries Transparency Initiative (EITI). PWYP has already identified the need to work on marine fisheries and this appears to be an area where donor support could be effective.

While civil society plays a critical role in creating the ‘demand side’ of good governance, experience from other resource sectors suggests the need for independent audits of government departments as well. This is because tracking revenue flows and government expenditures can be complex and civil society organizations tend to lack the necessary expertise or credibility. The experience of Guinea provides inspiration and suggests African states may benefit considerably by instigating regular annual or biannual audits of fisheries departments. Such audits could be linked to broader efforts to measure the potential value of marine resources, as well as the economic and social costs of their demise.

Finally, reforms relating to greater transparency, accountability and public oversight could be joined together through an equivalent of the EITI. EITI not only places obligations on states to publish details of revenues and undertake independent audits by accredited auditing firms, it also establishes joint committees comprised of industry representatives, civil society organizations and government officials that monitor progress and track government spending. Extending EITI to fisheries may help raise awareness of the need to address corruption in this sector and the lessons learned from the oil and mining sector would no doubt be useful for work in fisheries. For such an initiative to be successful, however, it is vital that African countries and African intergovernmental organizations play a leading role. In this respect, the development of an EITI inspired initiative for fisheries could be driven by the African Union, with a secretariat operating within or through the New Partnership for Africa’s development (NEPAD).

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A RIGHTS BASED APPROACH TO FISHERIES³

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According to the FAO, about there were about 43.5 million fishers and fish farmers in 2006, with another about 170 million people estimated to be employed in other fisheries-related activities (FAO, 2008). It has also been estimated that small-scale fisheries contribute over half of the world's marine and inland fish catch, nearly all of which is used for direct human consumption, and employ over 90 per cent of the world's capture fishers. Further, at least half of the people employed in small-scale fisheries are women (FAO, 2009). Notably, for small-scale fishing communities, fishing is much more than a form of employment—it is a way of life, with belief systems, cultures and identities linked to fisheries.

The largest numbers of fishers and fish farmers are in Asia—about 86 per cent of the total—with about 8.6 per cent in Africa, and 3.2 per cent in Latin America. While Asia has the largest concentration of fishers, small-scale fisheries in other developing and small island countries have considerable strategic importance. In Sub-Saharan Africa, for example, as in Senegal, Ghana, Guinea, Sierra Leone, Liberia, Angola and Mozambique, small-scale fisheries are vital for food and livelihood security, particularly in a context of war and civil strife. In Senegal, small-scale fisheries employ over 60,000 fishers, and, up to 600,000 people, some 17 per cent of the workforce, earn their living from fishing.

Small-scale fisheries, given that they are inherently more sustainable, continue to provide the model on which to sustain fisheries and fishery dependent livelihoods into the future. Despite this, the small-scale sector has not been given due recognition or support in countries across the world. The continuing importance of small-scale fisheries is evidence of the sheer dynamism of the sector.

This presentation highlights the need for adopting a human rights-based approach to development of fisheries, given the international consensus on achieving human rights. It points out that the principle of non-discrimination inherent in such an approach requires a special attention on those presently disadvantaged

within the sector, particularly in small-scale fisheries. A specific focus on small-scale fishing communities, particularly on women, is warranted given available evidence of their vulnerability as well as their importance in any vision of sustainable development. A human rights approach, by stressing that everyone, including, and in particular, marginalized groups, have legally mandated and recognized rights, and the basis to claim them, not as charity, but as a right, is the first step towards empowerment.

Small-scale fishworkers and their supporters have organized several regional workshops since 2007, in Asia, Africa and Latin America, all of which have called for a human rights-based approach to development in relation to fisheries and fishing communities. These processes have also thrown up concrete proposals of what a rights-based approach should mean in practice, from the perspective of small-scale fishworkers. The Bangkok Statement⁴, adopted by participants of the Civil Society Workshop⁵ held prior to the Global Conference on Small-Scale Fisheries (4SSF) co-organized by FAO and the Royal Government of Thailand from 13 to 17 October 2008 in Bangkok, Thailand, represents a culmination of these processes.

The rights highlighted in the statement include:

- Rights of fishing communities and indigenous people to their cultural identities, dignity and traditional rights, and to recognition of their traditional and indigenous knowledge systems;
- Rights of access of small-scale and indigenous fishing communities to territories, lands and waters on which they have traditionally depended for their life and livelihoods;
- Rights of preferential access to fisheries resources under national jurisdiction;
- Rights of fishing communities to use, restore, protect and manage local aquatic and coastal ecosystems;
- Right of communities to participate in fisheries and coastal management decision-making, ensuring their free, prior and informed consent to all management decisions;

³ This presentation has received inputs from ICSF members in Europe, ICSF secretariat, and from the Coalition for Fair Fisheries Arrangements (CFFA)

⁴ The Bangkok Statement (<http://sites.google.com/site/smallscalefisheries/statement>) is the outcome of a process that presents the collective interests, concerns and aspirations of small-scale fishworkers from many regions. It builds on several preparatory processes, including regional workshops.

⁵ The Civil Society Preparatory Workshop was organized by the World Forum of Fisherpeoples (WFFP), the International Collective in Support of Fishworkers (ICSF), the International NGO/ CSO Planning Committee (IPC), the Sustainable Development Foundation (SDF) and the Federation of Southern Fisherfolk, Thailand.

- Rights of women to participate fully in all aspects of small-scale fisheries, eliminating all forms of discrimination against them and securing their safety against sexual abuse;
- Rights of women of fishing communities to fish resources for processing, trading, and food, particularly through protecting the diversified and decentralized nature of small-scale and indigenous fisheries;
- Right of women to fish markets, particularly through provision of credit, appropriate technology and infrastructure at landing sites and markets;
- Rights of fishing communities to basic services such as safe drinking water, education, sanitation, health and HIV/AIDS prevention and treatment services;
- Rights of all categories of workers in the fisheries, including self-employed workers and workers in the informal sector, to social security and safe and decent working and living conditions;
- Rights of fishing communities to information in appropriate and accessible forms.

It is worth noting that many of these “rights” seen as important by small-scale fishworkers are already recognized in existing international law, including customary law. These include the 1966 International Covenant on Economic Social and Cultural Rights (ICESCR); the 1982 United Nations Convention on the Law of the Sea (UNCLOS); the 1995 United Nations Fish Stocks Agreement (UNFSA); the 1995 Code of Conduct for Responsible Fisheries (CCRF); the 1992 Convention on Biological Diversity (CBD); the ILO Convention 169 on Indigenous and Tribal Peoples (1989); the ILO Work in Fishing Convention 188 (2007); the 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); and the 2007 UN Declaration on the Rights of Indigenous Peoples.

It is also worth noting that the Bangkok Statement did not make any distinction between fishing communities in the North and South. The call to establish small-scale fisheries as the preferred model for the exclusive economic zones of countries, as well as other issues highlighted in the Statement, was seen as relevant for all countries.

Deliberations at the FAO’s Committee on Fisheries (COFI), since 2003, have increasingly reflected international trends of a growing focus on issues of social development and human rights. The 27th session of COFI recognized that: “progress in the implementation of international human rights instruments, including the conventions on the rights of seafarers and working conditions in fisheries were critical to both small-scale and large-scale fisheries” and stressed that: “the recognition and adoption of human rights principles can help achieve poverty eradication and facilitate the adoption of responsible fisheries practices”. The Global Conference on Small-scale Fisheries (4SSF)⁶ held in October 2008, reaffirmed

that human rights are critical to achieving sustainable development (FAO 2009).

The report to the United Nations General Assembly (UNGA) on the work of the tenth meeting of United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea (UNICPOLOS) noted: “The question of whether the Consultative Process should address issues related to human rights, including ownership of resources in the marine environment, was raised by several delegations. In this context, it was noted that a greater focus on social dimensions and human rights would also enhance stakeholder involvement, especially in coastal communities....” (para 27).

It is evident that, in general, there is a growing commitment to a human-rights based approach to development⁷, as well as to bringing in human rights considerations into fisheries policies.

Clearly, the onus of implementing a human rights-based approach to development in relation to fishing communities cannot rest with fisheries line agencies alone. Commitment and action from a wide range of actors, internationally, nationally and locally, and particularly from governments and multilateral organizations, are crucial. However, fisheries line agencies do have a crucial role in working with other relevant agencies and organizations to seek improvement in the quality of life of fishing communities and to secure their rights. They have the obligation to ensure that all policies adopted within fisheries, whether related to fisheries management or the post-harvest sector, are consistent with a human rights-based approach to development, and benefit particularly the disadvantaged groups within the sector.

At a time when the EU is preparing to fundamentally reform its Common Fisheries Policy, it needs to dwell on how a human-rights based approach to development can be applied in a fisheries context, both domestically and in external fisheries policy, and how it can be promoted through development cooperation policy.

As mentioned earlier, fisheries are of tremendous strategic importance in ACP countries. In an European context as well small-scale fisheries play a key role, with about 90 per cent of the coastal fishing fleet in EU 25 being small-scale. The small-scale fleet is considered relatively more energy efficient, environmentally sustainable, and socially equitable. Women play a vital, though often hidden and unrewarded role. In Galicia (North Spain) and Portugal, for example, women predominate in the shellfish gathering. It is noteworthy that in several EU Member States women’s rights as “collaborating spouses” has achieved some recognition.

Against this backdrop, and drawing from the Bangkok Statement and processes related to it, the following issues need attention in the context of the CFP Reform process:

6 www.4ssf.org

7 126: “We resolve to integrate the promotion and protection of human rights into national policies and to support the further mainstreaming of human rights throughout the United Nations system, as well as closer cooperation between the Office of the United Nations High Commissioner for Human Rights and all relevant United Nations bodies”. 2005 World Summit Outcome: Sixtieth Session of UN General Assembly. Accessed online at: <http://daccessdds.un.org/doc/UNDOC/GEN/N05/487/60/PDF/N0548760.pdf?OpenElement>

- How can it be ensured that capacity reductions in EU fleets/ reduction in their access rights in EU waters, do not lead to capacity increases in other fishing areas, particularly in developing country fisheries, impacting on social, economic and cultural rights of communities in these countries? How can it be ensured that views of fishing communities from ACP countries in fisheries partnership agreement decision-making are better represented?
- which may undermine the social, economic and cultural rights of coastal communities? How can the rights of small-island and indigenous fishing communities and minority ethnic and language groups within the EU, be restored and protected?
- How can it be ensured that small-scale fisheries, within and outside Europe, have equitable access to markets and a fair price for their fish? How can rules of trade be structured so as to bring concrete benefits to small-scale fishing communi-



Children in the river

- How can effective 'participation' of fishing communities in fisheries management decision-making be secured, in particular, in deciding what kind of management measures (including restrictions on destructive gear) are needed to help secure economic and social rights of small-scale fishing communities. How can management systems (for inland and coastal fisheries) be designed in ways that suit the local context, taking note of local social and cultural norms and institutions, and in ways that incorporate traditional knowledge into scientific advice?
- How can preferential access rights of small-scale fishers to fishing grounds and resources be secured? How can allocation systems (in both inland and coastal fisheries) that prejudice the economic, social and cultural rights of small-scale fishers and coastal communities to access resources and carry out their customary livelihoods, be changed? In particular, taking note of observed impacts of market-based allocation mechanisms in other parts of the world, how can it be ensured that their introduction within the EU does not lead to concentration of ownership of access rights, fish and quota leasing arrangements that worsen working conditions for fishers, and ties, through, for example, higher prices for fish, and greater employment opportunities, including in fish processing? How can it be ensured that policies and practices related to the promotion of international fish trade, do not adversely affect the livelihood and nutritional rights of small-scale and artisanal fishing communities, and the prices received by small-scale fishers locally.
- How can due recognition be given to the important economic and social roles that women play in coastal communities and in small-scale fisheries, as "collaborating spouses", as manufacturers, riggers and repairers of fishing equipment, as small-scale fishers and fish sellers, and as mothers of fishing families?
- How can transparency and sharing of information, within and outside the EU, be ensured? How can fisher communities and civil society within the EU have full access to scientific data, information on markets and prices, on use of public aid, and on allocation of resources, enhancing their ability to participate in decision-making?

TOWARDS AUTONOMOUS FISHING COMMUNITIES⁸

By Ephraim Patrick T. Batungbacal⁹

The purpose of this paper is to give a brief overview of the situation of fisheries in the Philippines with emphasis on the organizational capacity of the small scale fisherfolk as a function of sustainable fisheries. It highlights the need for capacity building for the small-scale fisherfolk sector both as an informal sector, an organized stakeholder and partner in nation building. It concludes with a synthesis of various recommendations crafted through processes initiated by Tambuyog at the national and international arena.

State of environment

Mangroves are salt-tolerant evergreen forests found along sheltered coastlines, shallow-water lagoons, estuaries, rivers or deltas in 124 tropical and subtropical countries and areas, mainly growing on soft substrates. Fishermen, farmers and other rural populations depend on them as a source of wood (e.g. timber, poles, posts, fuelwood, charcoal) and non-wood forest products (food, thatch - especially from nipa palm - fodder, alcohol, sugar, medicine and honey).

In Asia, the top five countries with the highest remaining mangrove areas are Indonesia (3 062 300 ha.), Malaysia (564 971 ha.), Myanmar (518 646 ha.), Philippines (247 362 ha.) and Thailand (244 085 ha.). Indonesia has the highest remaining mangrove cover in the world while Asia has 6 048 000 of the world's total mangrove area of 15 705 000 ha¹⁰.

Corals reefs are animals that form calcium carbonate skeletons wherein a variety of fish reside for food and protection. A diverse number of marine organisms can be found on the reefs and once it is destroyed, marine biodiversity and the fisheries goes with it.

Reefs effectively lost (19%) are either so heavily degraded as to be non-functional, or have been polluted or mined out of existence. Reefs at critical stage (15%) are under imminent threat of joining the 'Effectively Lost' category within the next 10-20 years, unless effective management actions are implemented. Reefs at threatened stage (20%) are reefs with 50 to 90% loss of corals and likely to join category 2 (e.g. reefs at critical stage)

in 10 to 20 years. Fortunately, the regional experts consider that 46% of the world's reefs are either stable or recovering rapidly and not threatened by significant levels of human stresses. In the Philippines, only 1% of coral reef cover are considered to be in very healthy condition, 9% in healthy condition, 50% in fair condition and 40% in poor condition.¹¹

The total world production from marine capture fisheries in 2006 was 81.9 million tones while marine aquaculture was 20.1 million tones. The Philippines belongs to the top ten aquaculture producers of food fish supply producing 623 369 tons in 2006. Its average annual percentage growth rate for 2004-2006 is 10.32%. While the proportion of underexploited or moderately exploited stocks declined linearly from 40 percent in the mid-1970s to 20 percent in 2007, the proportion of fully exploited stocks remained steady at about 50 percent. The proportion of overexploited, depleted or recovering stocks appears to have stabilized at between 25 and 30 percent since the mid-1990s¹²

Condition of filipino fisherfolk

Most of the municipal fisherfolk are not organized. Municipal fishers are those using boats 3 gross tons or less. Only 888 are organized into cooperatives and the remaining 1.4 million are registered as individuals¹³. Of the 1.4 million, only 14.62 percent finish high school. Thus, it is not surprising that an estimated 441,000 fishermen are below the poverty line¹⁴. While local government units have the responsibility of maintaining a fisherfolk registry in their respective municipalities, this undertaking has not been successful.

During the implementation of the Fisheries Resources Management Project financed by the Asian Development Bank, several fisherfolk organizations have been organized. It was observed that these organizations were not sustained after project implementation as funds for their operations were discontinued as the project was completed. Although some organizations such as cooperatives did managed to sustain themselves, the number of organizations is still a small fraction compared to the total prospective members.

8 April 2009. Paper prepared for upcoming Copenhagen conference on small-scale fisheries organized by PUGAD.

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10 FAO. 2007. The World's Mangroves 1980 - 2005. A thematic study prepared in the framework of the Global Forest Resources Assessment 2005. FAO Forestry Paper 153.

11 Wilkinson, C. (2008). Status of coral reefs of the world: 2008. Global Coral Reef Monitoring Network and Reef and Rainforest Research Centre, Townsville, Australia, 296 p.

12 FAO. 2008. The state of world fisheries and aquaculture.

13 NSO. 2002. Census of Fisheries, Philippines. Vol. 1. Final Report.

14 http://www.nscb.gov.ph/poverty/2000-2003/pov_inc_00_03.asp

This lack of organization presents a major hindrance in the management of fisheries resources. To strengthen community institutions is to make them responsible and accountable stewards of coastal resources. Functional organizations are characterized by the capacity to unite, mobilize, resolve and address issues and conflicts of the community.

Sustainable fisheries, in my view, is a function of autonomous fisherfolk organizations. Such organizations have to be accountable, transparent and responsive to the needs of their members. The philosophy is simple: If fishing communities are doing well, then the fishing nation is doing well. Doing well means that fishers have enough income from and beyond fishing. Fishers could send their children to school, are healthy and have enough savings for future need. Doing well also means getting quality fish to market at the least possible cost. It also means that a portion of the income from fishing is used to improve the capacity of organizations. Can fisherfolk organizations sustain the challenges ahead of them considering the trends and patterns stated in bullets A to D below?

A. Policy Trends

- Delineation of municipal waters (0-15 Km from shore)
- Registration and licensing of municipal fishers
- Fishers registered in municipality A are only allowed to fish in municipality A
- Investments in mariculture parks
- Bills on Marine Protected Areas and Department of Fisheries

B. Production Trends (2007)

- Municipal (1 300 000 metric tons (mt)) >
Commercial (1 200 000 mt)
- Seaweed aquaculture (1 500 000 mt) >
fish culture (700 000 mt)
- Increasing encroachment of small-scale commercial fishing vessels within 15 km due to increase in fuel costs.
- **but** seaweed and carageenan exports declining
- **but** fisheries overexploited
- **but** catch per unit effort continues to decrease

C. Fisheries governance

- Municipal Fisheries and Aquatic Resources Management Councils (MFARMC) are not yet fully functional
- Fisheries management of municipal waters devolved to local government units
- Budget for fisheries sector - relatively small
- Funding for Community Based Coastal Resources Management is declining

D. Pervasive problems

- Competition with commercial fishing boats (e.g. > 3 gt)
- Enforcement of fisheries laws
- Slow justice system (e.g. cases filed > cases resolved)
- Use of destructive fishing techniques (e.g. trawls, fine mesh nets, dynamite, cyanide)

Discussion

Conventional fisheries theory tells us that open access attracts too many fishers. More fishers means stock depletion and decrease incomes in the long run (Gordon, 1954). Habitat improvement alone or what I call "Security Guard" framework cannot restore fish stocks. Anonuevo (1994) notes the prevalence of "technofascism"; a mode of thinking and conduct which treats people not as a subject but merely as an object of intervention. Anonuevo tells us that rejection of technofascism rests on the belief and historical lesson that human communities have within them the autonomous capabilities to chart and manage their own lives and affairs¹⁵.

A public policy is whatever governments chose to do or not to do. It involves intentions and behavior as well as action and inaction. Most, if not all ADB funded projects in the fisheries sector has poverty reduction as one of its objectives. However, the prevailing public policy towards the fisheries sector hinders autonomous fishing communities.

In the olden days, there was once a system known as Territorial Use Rights in Fisheries (TURF). This system was effective in the case of Japan. Such use rights are simply 'the rights to use', as recognized or assigned by the relevant management authority (whether formal or informal). Along with rights go responsibilities: as the FAO Code of Conduct for Responsible Fishing (Paragraph 6.1) notes, "The right to fish carries with it the obligation to do so in a responsible manner...". A key aspect in moving toward responsible fisheries thus lies in developing effective and accepted sets of both rights and responsibilities among fishers¹⁶. Not only are there use rights, there are also bundle of rights as well.

Use rights determines who should use the fishery. Others are excluded and only the community members, as stakeholders, have rights and duties over the resource. Exchange rights means that the community must likewise have control over the channels through which their produce pass through. Distribution entitlements means that the benefits of the resource must be equitable such that equal access and opportunity for all community members have to be guaranteed. Finally, management and authoritative schemes should provide a venue for determining the actual management and authority instruments to assure compliance and order¹⁷

In summary, a fishery to be sustainable should have a management authority, a clear delineation of management area, has simple and understandable rules made effective through graduated sanctions.

15 The late Carlito T. Anonuevo was former Executive Director of Tambuyog Development Center. Añonuevo, C.T. 1994. On autonomous capability and technofascism: The role of NGOs and LGUs in CBCRM. In *Lundayan Journal*, Vol.5 No. 4, 38-44.

16 Charles, A.T. Use Rights and Responsible Fisheries: Limiting Access and Harvesting through Rights-based Management, p. 132. In Cochrane, K.L. (ed.) *A fishery manager's guidebook. Management measures and their application*. FAO Fisheries Technical Paper. No. 424. Rome, FAO. 2002. 231p.

17 Dela Cruz, Q. 1994. Community-based coastal resource management: a response to an open-access coastal fishery resource. In *Lundayan Journal*, Vol.5 No. 4, 6-14.

What is needed is training for transformation. Let us improve the state of fisherfolk organizations (Table 1). As the age old adage tells us “Help them to help themselves”. The fisherfolk have already been deprived of the opportunity of formal study. Today, we must allow them every opportunity to participate and learn

from various forms of capacity building processes which would enhance fishing organizations towards autonomy - autonomy with responsibility. The end goal is empowered communities of women and men responsible for and enjoying benefits from the sustainable management of fisheries resources.

Table 1. State of fisherfolk organizations

Critical factors	Then	Now
1. Age of fishing household	Younger	Older
2. Fish	More high value	Less high value
3. Fuel costs	Lower	Higher
4. Fishing grounds	Nearer	Farther
5. Fish price	Lower	Higher
6. Number of fishers	Low	High
7. Next generation fisher	More	Less
8. Fishing household size	5-6	Same
9. Ecosystem complexity	Moderate	High
10. Financing	More	Less
11. Market	Domestic	Export
12. Value chain	3 layers	3 or more layers
Capacity (knowledge) building factors	Then	Now
13. Formal education	Low	Only 2.36% finish college
14. Trainings, workshops	Low	Increasing but not enough
15. Computer know how	Low	Still low
16. Mobile phones	Less	Necessity
17. Savings	Low	Still low
18. Organization	Weak	Still needs improvement

General Recommendations

1. Create an international awareness on small-scale fisheries
 - UN International year for small-scale fisheries
2. Invest in capacity building for small-scale fisheries
3. Eliminate all destructive forms of fishing (e.g. trawl, fine mesh nets, dynamite and poison)
4. Negotiate for private public partnerships towards financing fisheries management
5. Support bottom up processes towards transformation
6. Maximize information technology
7. Ensure adequate representation in key global and regional decision making processes

Further Reading

- Annex A. Banilad Declaration. Cebu, Philippines (2002)
- Annex B. SEA Conference on Sustainable Fisheries & Trade. Cavite, Philippines (2003)
- Annex C. Jakarta Declaration. Indonesia (2005)
- Annex D. SEAFish Pool of Consensus. Philippines (2008)

PERSPECTIVES FROM A FISHING COMMUNITY

By Hahn Goliath, Chairman of the fisher movement Coastal Links

Kids, down to the age of 14, stand up against their parents and tell them that the parents can't decide any more simply because they put food on the table. It's like the most important of the cultural values, the respect for the elder, is disappearing as a result of lost opportunities. Fishers are not allowed to fish anymore, even though they come from families where fishing has provided food and income for generations. This is only one of the heartbreaking things that we witness every day in our village, and it is the devastating effect of the fishing quota legislation in South Africa.

Being a traditional fisher and make your life out of the sea in South Africa is like becoming a criminal because it is against the law to practice our traditional rights. Government and the fishing industry has show no interest in the life in traditional fishing communities, and there is no way for us fishers to share the resources of the Ocean. We feel like if we are the only people who shall pay for the declining fish stocks, even though it is the fishing industry that has overfished for decades. Many families simply cannot cope with the challenges we are facing, and every day we have to witness families falling apart.

Fortunately for us fishers, the NGO Masifundise reached out to us about 10 years ago. After the Earth Summit in Johannesburg, 2002, a process was started to mobilise us fishers, and in 2004 Coastal Links was established with support from Masifundise. Men and women from about 20 fishing communities started to mobilise and organise, and several protests campaigns were initiated in order to put pressure on government and lobby for a fair fishery policy. With no immediate result, or hardly any response from government at all, Coastal Links, Masifundise, and others took the responsible minister to Court on the ground that the fishing policy was in breach of the South African constitution. After several Court hearings the minister stood to lose the case, and his legal advisers recommended that he signed an out of court agreement. This agreement was signed by the Minister and the Court Applicants in May 2007. It was a groundbreaking success as it obliged the Minister to formulate and implement a new fishing policy that takes into consideration the rights of the thousands of traditional fishers in South Africa. In addition hereto, it granted an interim fishing right for a thousand destitute fishers until the new policy was in place. Two years and a bit down the line this policy is no where near final. The process has been delayed several times, and partially because the fishing industry launched a Court case against the minister and those poor fishers who were granted interim fishing rights. Basically, the industry do not want to share the resources that belong to them according to the current fishing

legislation, and they pay no consideration to the thousands of people from the South African coastal communities who continue to wait for the fruits of the new fishing policy.

Today, Coastal Links has got about 1500 members from fishing communities in the Western and Northern Cape Provinces. It has become a movement which government cannot ignore any more, and it has given hope and dignity back to many of our community members. There will be many more challenges in the years to come, and we will stand up against these. The interim fishing rights that we have won, have provided food and income for almost a thousand fishing families, and it has taught us that it is possible to take our own future into our own hands.

Despite the problems in the fishing industry and our communities, we believe that there is a possibility for us to get our lost livelihoods back and to achieve a sustainable fishery. This possibility rests on co-management of the fishery resources between us and the government. We are positive that a community based system will work if we are informed and updated with all the information that we as fishers must have access to. The system we propose is also very much based on a human rights approach, where we are allowed to fish and to process and market the fish ourselves. Such an approach will bring social and economic development back to our communities, the fishers will restore their pride and dignity, and children will look up to their dads. Our communities will flourish again.

