

INTERNATIONAL EXPERT MEETING ON THE CONTRIBUTION OF HUMAN RIGHTS TO THE SUSTAINABLE DEVELOPMENT OF FISHERIES

Copenhagen 19-20 June 2018

BACKGROUND

Oceans are the source of human life. They provide critical ecosystem services and nutrition, and support human well-being and livelihoods, employment and economic growth, therefore contributing to poverty eradication and food security.

The Call for Action¹ of the 2017 Ocean Conference highlights the deteriorating status of the oceans and the need for decisive and urgent action to achieve Sustainable Development Goal (SDG) 14. It emphasizes the need for enhanced cooperation and policy coherence, and stresses that its implementation must be in accordance with existing legal instruments. This inevitably brings states' obligations under legally-binding human rights instruments and labour standards to the fore and reaffirms the need for a human rights-based approach to fulfil the overall pledge of the SDGs to realize the human rights of all.²

The International Expert Meeting on the Contribution of Human Rights to the Sustainable Development of Fisheries brought together participants from governments, UN

agencies, National Human Rights Institutions, fisherfolk, civil society organisations and academia. The participants discussed the importance of fisheries for the realization of human rights, human rights impacts associated with the fisheries sector, as well as strategies and opportunities to address these through multi-stakeholder dialogue and joint actions at national, regional and global levels. This document highlights the key messages from the meeting organised by the Danish Institute for Human Rights (DIHR) and supported by Swedish International Development Cooperation Agency (Sida)³.

HUMAN RIGHTS ISSUES RELATED TO FISHERIES AND AQUACULTURE

Human rights are indivisible and interdependent, but a number of human rights issues are particularly salient within the fisheries sector:

The right to an adequate standard of living, including the right to food

Fish⁴ is a critical element in food security and nutrition, and represents a significant protein source for 3.1 billion people across the globe.

¹ UN Doc. 71/312. Our ocean, our future: call for action.

² UN Doc. A/Res/70.1: Transforming our World: the 2030 Agenda for Sustainable Development.

³ In 2018, DIHR and Sida initiated a 3-year project on "Sustainable Oceans - pursuing a human rights-based approach to fisheries and aquaculture". The overall

objective is to document human rights implications and impacts pertaining to fisheries and aquaculture and addressed these in selected national (Bangladesh and Chile) and global dialogue, policies and strategies for sustainable development and responsible business.

⁴ The term is used here to include all foods from the ocean (e.g. crustaceans, shellfish etc.).

Moreover, most recent official statistics indicate that 59.6 million people were engaged in the primary sector of capture fisheries and aquaculture in 2016⁵. Small-scale fishers and fish workers account for the vast majority of those directly involved in marine fisheries, and contribute to food security for poor marginalized and vulnerable populations in developing countries. However, competition from large-scale fleets, expansion of infrastructure, industrial projects, tourism and other sectors and weak recognition of customary resource rights increase their vulnerability. In a similar vein, aquaculture development often affects the customary resource rights and livelihoods of local communities and indigenous peoples depending on capture fisheries.

The right to a healthy environment

Climate change and environmental factors have a significant impact on fisheries and aquaculture, but the sectors may also negatively affect the environment and aggravate the consequences of climate change. Ocean acidification, destruction of mangroves, pollution and rising sea temperatures and sea levels affect fish populations as well as communities and their livelihoods. Ultimately, environmental degradation and climate change affect the full range of human rights, including the right to life. However, fisherfolk are often not involved in dialogues around climate change adaptation and mitigation. Likewise, decisions regarding spatial conservation measures, such as marine protected areas, are often undertaken without due consideration of the rights of consultation and participation of affected rights-holders.

Indigenous peoples and customary rights to lands, territories and resources

The expansion of industrial fisheries and aquaculture adds to the existing pressure on customary rights to lands, territories and resources that indigenous peoples and coastal communities experience around the world. Resource extraction, tourism, infrastructure development and the establishment of protected areas may further undermine or violate rights relating to traditional livelihoods and culture. A human rights-based approach can ensure that the development of commercial fisheries and aquaculture respects customary rights and takes into account local development priorities, and rights to consultation, participation and consent.

Labour rights

Workers in fisheries and aquaculture can be confronted with severe violations of labour rights related to, for example, working hours, occupational safety and health, and child and forced labour. These violations are linked to the informality, seasonality, remoteness, hazardous nature, and value chain complexity often characterizing the sectors, and are further accentuated in the context of illegal, unreported and unregulated fishing, which is also associated with exploitation of migrant workers. Protection of labour rights is often weak in both small-scale and larger operations, and even when regulation exists, enforcement is poor.

Political rights and fundamental freedoms

Small-scale fishers, migrant fishers and fish workers often constitute politically

⁵ The State of the World Fisheries and Aquaculture 2018, <http://www.fao.org/state-of-fisheries-aquaculture/en/>

marginalized groups with a low level of organisation. Existing power dynamics and imbalances are further aggravated where industrial fishing is expanding, and where corruption is prevalent. Violations of rights to political participation, access to information, access to justice, freedom of speech and other fundamental freedoms further limit effective participation. The development of sustainable fisheries is thus closely linked to protection of civil and political rights, and to the rule of law, good governance and democratic decision-making.

Equality and non-discrimination

Many of the human rights issues and implications of the fisheries sector reflect or exacerbate patterns of discrimination against particular groups of rights-holders, based on characteristics or 'grounds of discrimination' such as, ethnicity, gender, migratory or social and economic status. Men, for example, are most at risk of human trafficking in the fisheries sector, while women tend to be less represented in organisations, often do "invisible" pre- and post- harvest work, have less access to skills training, are paid low wages and are also often subject to sexual harassment. Furthermore, many of these grounds of discrimination intersect and are mutually-reinforcing within a negative spectrum of vulnerability. Women and vulnerable groups are often invisible in statistics and there is weak legal recognition or enforcement of their rights. A human rights-based approach to sustainable development requires data and knowledge about the situation of particular groups, and attention to the principles of participation, inclusion, transparency, accountability and non-discrimination. Moreover, the rights of these groups must be specifically considered and addressed in a manner that leads to their

empowerment and strengthens their ability to hold duty-bearers to account. Data collection must take into account human rights principles related to participation, disaggregation, self-identification, privacy, accountability and transparency.

CHALLENGES AND OPPORTUNITIES

Complexity

The fisheries and aquaculture sectors are impacted by a complex series of external drivers, including climate change and international trade regimes. The intertwined economic, social and environmental dimensions of fisheries and aquaculture; the complex layers of national and international laws and regulations, and; the extraterritorial aspect of certain fishing and legislation provide for an enormous complexity, which is a key obstacle for concerted efforts towards the sustainable development of fisheries. The lack of supply chain documentation, complex finance and ownership structures, and challenges in traceability of fish products contribute to limited transparency in these sectors, and weak enforcement of applicable standards. Moreover, the characteristics of the sectors relate to the broader discussion of states' responsibilities with regards to extra-territorial human rights obligations.

Many human rights institutions do not have the knowledge and capacity to engage systematically in these sectors and, in turn, fisheries administrations and actors are not sufficiently knowledgeable about human rights and related impacts on sustainable fisheries.

In this context, companies' responsibility to respect human rights and exercise human rights due diligence is central. However, private sector actors, across the spectrum of

size and other variables, need practical guidance on how to translate human rights and sustainable development concerns into concrete actions and business incentives.

While industry initiatives are emerging, including in the context of the 2030 Agenda, they have so far been limited to the biggest transnational actors and selected countries. It is a challenge to broaden these initiatives, and to involve the entire value chain, including small and medium enterprises. Further, there is a need to involve actors with a potential strategic impact on the sectors such as investors, banks and insurance companies in a cross-cutting and sustainable manner. Certification schemes are proliferating, and can contribute to data collection as well as change within these sectors. However, these schemes do not necessarily address core human rights and labour issues. Likewise, consumer awareness as a driver for change is mainly relevant for a minority of consumers in developed countries. While there is ample space for consumer-driven, reputation-enforced approaches, these need to be underpinned by an effective regulatory system.

Coherence and concerted efforts

The fisheries and aquaculture sectors are guided by a series of binding and non-binding international instruments, such as the UN Convention on the Law of the Sea, ILO Convention No. 188 and the Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication (SSF Guidelines), which represent a sector-specific adaptation of universal human rights norms. Moreover, universal human rights and labour standards are generally applicable to the sectors and establish norms for particular groups of rights-

holders, such as women, indigenous peoples and small-scale fishers. Finally, the UN Guiding Principles on Business and Human Rights specify the responsibility of private sector actors to respect human rights.

The SDGs explicitly seek to realize the human rights of all, and pledge to leave no one behind. The 2030 Agenda is underpinned by human rights and other international agreements, and thus constitutes a unique framework for coherence and for effective partnerships that enable collective action. The human rights system comprises institutions and mechanisms at national, regional and international levels that can contribute to enhancing accountability in the sustainable development of the fisheries and aquaculture sectors. However, increased coordination, communication and capacity-building of all parties will be required to pursue more concerted efforts for the sustainable development of the sectors in order to address the economic, social and environmental dimensions of sustainability in a balanced way.

Agenda of proposed action

The participants of the meeting identified a series of, priority actions, as well as key initiatives, events and processes that can serve to consolidate partnerships and expand outreach in coming years. This Agenda of proposed action is annexed to this document, and will serve as a framework for further communication and collaboration among participants.

ANNEX: AGENDA OF PROPOSED ACTION

In order to pursue synergies and concerted efforts for the sustainable development of the fisheries and aquaculture sectors through a human rights-based approach, the International Expert Meeting on the contribution of Human Rights to the Sustainable Development of Fisheries and Aquaculture identified a number of priority areas of work and key processes for engagement. Although no single actors can address all of these priorities and processes, the following catalogue of ideas can help identify and guide partnerships and collaboration in the coming years:

Documentation and tools:

- Mapping of the linkages between, on the one hand, human rights norms and instruments, labour standards and related guidelines, and, on the other, main components of the fisheries and aquaculture value chains. The mapping would result in an online “fish and human rights dictionary”. The mapping should include the full spectrum of human rights, but also frame the issues in the context of sustainable development, livelihoods, poverty eradication, food security, gender equality, customary resource rights, traditional occupations and indigenous peoples’ rights.
- Development of fundamental information materials for human rights institutions and mechanisms as well as actors within the fisheries and aquaculture sectors, on key issues pertaining to human rights throughout the value chains of the sectors.
- Compilation of jurisprudence, complaints, comments and recommendations addressing issues pertaining to human rights in the fisheries and aquaculture. Seeking collaboration with organisations already working on such issues, data will be drawn from National Human Rights Institutions (NHRIs), treaty bodies and special rapporteurs, ILO supervisory system, regional human rights systems, national case law and OECD National Contact Points, among others.
- Development of methodology to assess the human rights situation of the entire value chains of fisheries and aquaculture sectors at country level, also taking into account how the sectors contribute to other global commitments (e.g. on SDGs, gender, climate change and human rights).
- Development of a ‘checklist’ for actors within the fisheries and aquaculture sectors, to provide a quick overview of the salient human rights issues and impacts associated with certain components of the sectors.
- Development of indicators for measuring progress in furthering respect for human rights in the fisheries and aquaculture sectors.
- Collection and sharing of good practice on the implementation of the Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication (SSF Guidelines).
- Documentation of good practice and lessons learned regarding human rights in the value chains of the fisheries and aquaculture sectors, and guidance on translating human rights requirements into incentives for different target groups (government agencies, donors, fisherfolk, business actors etc.)
- Translation of the SSF Guidelines into actionable points for the private sector.

- Development of tools and national strategies for implementation and monitoring of the SSF Guidelines, including as they relate to SDG target 14.b, among others, targeting all stakeholders, including governments.


Capacity-building and outreach:

- Information sharing and capacity-building of NHRIs, which will enable them to use their mandate to promote and protect human rights in the fisheries and aquaculture sectors at the country level, including by advising governments and facilitating dialogue between key stakeholders.
- Awareness raising among high-level decision-makers within governments and private sector.
- Collaboration with small-scale fishers and indigenous peoples' organizations, including through the Indigenous Peoples Major Group.
- Liaison with relevant actors to build on and expand the current agenda to eliminate slavery in the industry.
- Mobilisation of international finance institutions, investors and insurance companies as well as donor and UN agencies, to further sustainable development of the fisheries and aquaculture sectors, including through addressing human rights issues pertaining to fisheries and aquaculture in safeguards and guidelines.
- Liaison with key institutions from other sectors that have generated relevant lessons learned (garment sector, ship-breaking, palm oil, pastoralists, agriculture, among others).
- Liaison with relevant UN Special Rapporteurs.
- Awareness raising on human rights issues among environmental NGOs.
- Outreach to regional organizations, as catalysts for learning, experience sharing and driving action at country level. This could include regional fisheries management organisations (RFMOs), but also regional human rights institutions, regional economic commissions and institutions, among others.
- Work with existing private sector certification schemes to reinforce the implementation of binding conventions through such schemes.
- Liaise with legal support networks that provide assistance to fisherfolk to produce new case material and jurisprudence.

Contributing to major initiatives, events and processes:

- Identify and target national fisheries policy review processes to advance the integration of human rights in the fisheries and aquaculture sectors.
- Address the High-Level Political Forum and Regional Sustainable Development Forums, in particular when SDG 14 is under review.
- Contribute to relevant sessions of the Human Rights Council, for example the annual meetings of the Council on SDGs in 2019 and 2020.
- Inform policy developments in regional fishery organizations (e.g. General Fisheries Commission for the Mediterranean, African Union etc.).
- Contribute to policy developments in FAO's Committee on Fisheries (COFI), which meet in 2018 and 2020, and to the Committee on World Food Security (CFS).
- Provide input to the International Year of Artisanal Fisheries and Aquaculture 2022.

- Contribute to SSF Regional and Sub-Regional Multi-Stakeholder Dialogues.
- Address the Annual UN Forum on Business and Human Rights.
- Address the Annual meeting of the Global Alliance of National Human Rights Institutions.
- Contribute to Our Oceans Conference in 2020 and UN Ocean Conference 2020.
- Contribute to specific ongoing initiatives, such as the OECD/FAO collaboration on Promoting Responsible Business Conduct for Responsible Fish Value Chains; the Expert Meeting Towards a Guidance Document on Socially Responsible Fish Value Chains; the Alliance 8.7 and other initiatives to end forced labour and modern slavery; the Working Group on Sustainable Supply Chains (which has identified fisheries as a priority area); the UN Global Compact Action Platform for Sustainable Ocean Business, among others.



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