A HUMAN RIGHTS-BASED APPROACH TO SUSTAINABLE FISHERIES AND AQUACULTURE

FISHERIES, AQUACULTURE, HUMAN RIGHTS AND SUSTAINABLE DEVELOPMENT: A HOLISTIC APPROACH

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 on Work in Fishing 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 as well as establishing norms for particular groups of rights-holders, such as women, indigenous peoples and small-scale fishers. The UN Guiding Principles on Business and Human Rights specify the duty of States and the responsibility of private sector actors to respect human rights.

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 Agenda explicitly seeks to realise the human rights of all and its pledge to “leave no one behind” mirrors the fundamental human rights principles of non-discrimination and equality. 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.

The 2030 Agenda for Sustainable Development is grounded in human rights and addresses the three main dimensions of sustainable development – economic, social and environmental. The 17 Sustainable development Goals (SDGs) are “integrated and indivisible”1 and balance these three dimensions. Likewise, human rights are indivisible and interdependent.

---

1 Transforming our world: the 2030 Agenda for Sustainable Development, A/Res/70/1, 21 October 2015, para. 5.
Analysis by the Danish Institute for Human Rights demonstrates that 92% of SDG targets have direct links to provisions of international human rights instruments. The strong links between human rights and sustainable development offer enormous potential to make their follow-up better aligned and thus more effective, efficient and accountable.

The same analysis also demonstrates significant linkages between international environment-related instruments, human rights and the SDGs. Many of these international environment-related instruments, such as the UN Convention on the Law of the Sea, among others, also underpin or guide the fisheries and aquaculture sectors.

The Human Rights Guide to the SDGs identifies the concrete links between the 169 SDG targets and more than 70 international and regional human rights instruments, international labour standards and environmental instruments. The links identified by this tool provide the basis for a human rights-based approach to the planning, implementation and monitoring of the 2030 Agenda.
In Africa, small-scale fisheries, large-scale fisheries, and the aquaculture sectors all play important roles in sustainable development. They also have implications for a large range of issues - including employment, availability of food for human consumption, environmental protection, fuel consumption and efficiency of resource use - that can be linked to numerous SDG targets and human rights. Their economic, social and environmental impacts can be both positive and negative. As such they have the potential to both contribute to the achievement of the SDGs, as well as to impede their achievement in some areas. The relevance of the fisheries and aquaculture sectors to the 2030 Agenda is by no means limited to SDG 14 (Life Below Water). These sectors impact on and have the potential to contribute to the realisation of, numerous SDGs and their related Targets.

This means that efforts to achieve specific SDGs, necessarily depend and impact on the achievement of other SDGs. Given the extensive links between the SDGs and human rights, it also therefore follows that efforts to achieve specific SDGs can also have implications for a broad range of human rights, too.

For example, the table below provides one illustrative example of these linkages in relation to Target 14.b. Such linkages can be found throughout the 2030 Agenda. This example is not exhaustive, and Target 14.b can also be linked to a wider range of other SDG Targets and human rights.

<table>
<thead>
<tr>
<th>SDG TARGET</th>
<th>OTHER SDG TARGETS IMPACTED</th>
<th>HUMAN RIGHTS CONCERNED</th>
</tr>
</thead>
<tbody>
<tr>
<td>14.b Provide access for small-scale artisanal fishers to marine resources and markets</td>
<td>2.3 By 2030, double the agricultural productivity and incomes of small-scale food producers, in particular women, indigenous peoples, family farmers, pastoralists and fishers, including through secure and equal access to land, other productive resources and inputs, knowledge, financial services, markets and opportunities for value addition and non-farm employment. 8.3 Promote development-oriented policies that support productive activities, decent job creation, entrepreneurship, creativity and innovation, and encourage the formalization and growth of micro-, small- and medium-sized enterprises, including through access to financial services. 8.5 By 2030, achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value.</td>
<td>• Right to an adequate standard of living  • Labour rights  • Equality and non-discrimination  • Right to property, land</td>
</tr>
</tbody>
</table>
Therefore, if the fisheries and aquaculture sectors are to effectively contribute to achievement of specific SDGs, a holistic view needs to be taken wherein the impact on other areas of sustainable development must be considered.

Without adequate respect for human rights in fisheries and aquaculture, the risk increases that the contribution to the national economy of these sectors can be counterbalanced by more negative impacts on workers, local communities, specific groups of rights-holders, and on the environment. Better respect for human rights can contribute to improved sustainability and thus also achievement of a broader range of SDGs.

The inter-connectedness of all these different aspects means that concerted and coordinated efforts for the sustainable development of the sectors are required in order to address the human rights implications, as well as the economic, social and environmental dimensions of sustainable development in a balanced and holistic way.

The table below provides some illustrative examples of this inter-connectedness with respect to specific themes of access to land and resources and employment and equality. These are illustrative examples only. The inter-connectedness extends to significantly more SDGs and human rights themes.
<table>
<thead>
<tr>
<th>SDG GOAL AND TARGET</th>
<th>POSITIVE CONTRIBUTIONS</th>
<th>NEGATIVE ASPECTS</th>
<th>OTHER SDG – HUMAN RIGHTS LINKAGES</th>
</tr>
</thead>
</table>
| **1.4** By 2030, ensure that all men and women, in particular the poor and the vulnerable, have equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources, appropriate new technology and financial services, including microfinance. | **Fisheries and aquaculture in general are of significant importance to food security. Fish contains micronutrients and fatty acids which are essential for vulnerable populations, particularly children and pregnant women.** | Potential negative effects of industry-related fishing and aquaculture activities, production or infrastructure include the acquisition or allocation of land occupied by indigenous peoples or other local communities for. If land tenure is not protected by law or if there are no adequate due process procedures in place related to participation in decision-making, resettlement and compensation, then this can have a direct impact on local communities’ and small-scale agricultural productivity, food security and income. For small-scale fishers, rights to use and benefit from resources are related to secure tenure. Without this, there is diminished possibility of achieving Target 2.3 and Target 14.b for these groups. | Improved security of tenure and access to productive resources can generate results that can contribute to the achievement of specific SDGs and human rights through:  
- Reducing poverty (Goal 1, right to an adequate standard of living)  
- Improving food security (Goal 2, right to adequate food)  
- More sustainable management of water resources (Goal 6, right to water and sanitation, right to a healthy environment)  
- Provide access for small-scale artisanal fishers to marine resources and markets (Target 14.b, the right to property, right to participate in the benefits of resource use)  
- More sustainable management of land-based resources (Goal 15, right to a healthy environment, right to property, right to participate in the benefits of resource use) |
| **2.3** By 2030, double the agricultural productivity and incomes of small-scale food producers, in particular women, indigenous peoples, family farmers, pastoralists and fishers, including through secure and equal access to land, other productive resources and inputs, knowledge, financial services, markets and opportunities for | **Fisheries of all scales are also particularly important for employment, local economies and communities’ income generation in different ways.** | | |

**Fisheries and aquaculture in general are of significant importance to food security. Fish contains micronutrients and fatty acids which are essential for vulnerable populations, particularly children and pregnant women.**

Potential negative effects of industry-related fishing and aquaculture activities, production or infrastructure include the acquisition or allocation of land occupied by indigenous peoples or other local communities for. If land tenure is not protected by law or if there are no adequate due process procedures in place related to participation in decision-making, resettlement and compensation, then this can have a direct impact on local communities’ and small-scale agricultural productivity, food security and income. For small-scale fishers, rights to use and benefit from resources are related to secure tenure. Without this, there is diminished possibility of achieving Target 2.3 and Target 14.b for these groups.

**Fisheries of all scales are also particularly important for employment, local economies and communities’ income generation in different ways.**
8.1 Sustain per capita economic growth in accordance with national circumstances and, in particular, at least 7 per cent gross domestic product growth per annum in the least developed countries.

8.5 By 2030, achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value.

10.1 By 2030, progressively achieve and sustain income growth of the bottom 40 per cent of the

Small-scale fisheries employ more than 90 percent of the world’s capture fishers and fish workers, about half of whom are women.

Fishing and related activities often underpin the local economies in coastal, lakeshore and riparian communities and constitute an engine, generating multiplier effects in other sectors.

Understanding Africa’s fishing and aquaculture industry through multidimensional inequality is particularly essential. Fishers and fish workers in the sector suffer from not only income inequality, but also inequality of opportunity and treatment in the areas of labour but also in access to tenure, basic services and other areas. There is also inequality and discrimination within and between groups on the basis of a number of prohibited grounds of discrimination including gender, ethnic origin, race and social origin.

Moreover, inequality between small-and large-scale fishing are increasing, especially when the access rights are favoured to the latter.

Taking measures to improve equality of opportunity and treatment in employment can generate results that can contribute to the achievement of specific SDGs and human rights through:

- Reducing poverty (Goal 1, right to an adequate standard of living)
- Achieving gender equality and empowering women (Goal 5, fundamental human rights principles of equality and non-discrimination)
- Achieving inclusive growth (Goal 8, right to equality of opportunity and treatment, fundamental labour rights)
- Ensuring no one is left behind, general reduction of inequality (all goals, Goal 10, cross/cutting, fundamental human rights principles of equality and non-discrimination).

<table>
<thead>
<tr>
<th>Population at a rate higher than the national average</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>10.3</strong> Ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard</td>
</tr>
<tr>
<td><strong>10.4</strong> Adopt policies, especially fiscal, wage and social protection policies, and progressively achieve greater equality</td>
</tr>
</tbody>
</table>

| Potential to both influence individual wellbeing and accelerate the region’s inclusive growth. |
A HUMAN RIGHTS-BASED APPROACH TO SUSTAINABLE DEVELOPMENT IN FISHERIES AND AQUACULTURE

A human rights-based approach (HRBA) to development of the fisheries and aquaculture sectors can lead to better, more equitable and more sustainable development outcomes, and ensures coherence between policies and programmes.

“A human rights-based approach to development is a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights. It seeks to analyse inequalities which lie at the heart of development problems and redress discriminatory practices and unjust distributions of power that impede development progress.”

OHCHR, FAQ on HRBA to Development, pp15-16

According to this approach:

- The objective of development should be to further the realisation of human rights as enshrined in international human rights instruments;
- Human rights standards and the recommendations of human rights oversight mechanisms should guide programming in all sectors and in all phases of the programming process; and
- Development processes should contribute to developing the capacities of ‘duty-bearers’ to meet their obligations and of ‘rights-holders’ to claim their rights.
- Development efforts should monitor and evaluate both outcomes and processes guided by human rights standards and principles.
- Development efforts should be informed by the recommendations of international human rights bodies and mechanisms.

WHY IS A HRBA RELEVANT FOR THE FISHERIES AND AQUACULTURE SECTORS?

Mindful of the disproportionate impact of human rights abuses upon the rural communities in Africa that continue to struggle to assert their customary rights of access and control of various resources, including land, water and fish, the African Commission on Human and Peoples’ Rights (ACHPR) has called on states to adopt a human rights-based approach (HRBA) to natural resources governance. This Resolution4 calls for, among other things, respect for human rights in all matters of natural resources exploration, extraction, toxic waste management, development, management and governance, in international cooperation, investment agreements and trade regulation prevail.

To date, work to promote a HRBA in the fisheries and aquaculture sectors has focussed primarily on the protection of the human rights of the small-scale fishing communities rather than on the sectors more broadly. But more work needs to be done on the human rights impacts of all aspects of the

---

4African Commission on Human and Peoples’ Rights, Resolution on a HRBA to Natural Resources Governance (No. 224), at its 51st Ordinary Session held from 18 April to 2 May 2012 in Banjul, The Gambia.
fisheries and aquaculture sectors. For further information on the human rights linkages, Fact Sheet No. 1 outlines some of the main human rights links and implications of the fisheries and aquaculture sectors. Overall these are related to a broad range of human rights ranging from labour rights (occupational health and safety, equal remuneration, non-discrimination in employment and occupation, prevention of forced and child labour), to rights to an adequate standard of living (including adequate food), to rights to life, an adequate standard of living, and many others.

“In the more specific context of small-scale fisheries and its dependent people and communities, this results firstly in the reinforcing of their claim for recognition in national policy and service provision and for legal protection and support for legitimate livelihood actions.”

Given the indivisibility of the different aspects of the 2030 Agenda, of human rights, and the interconnectedness of human rights and the SDGs, a human rights-based approach offers the opportunity to take a more holistic approach to the fisheries and aquaculture sectors, considering their impact on multiple aspects of both these agendas. It offers the possibility to improve accountability in sustainable development processes, including in the fisheries and aquaculture sectors.

A human rights-based approach to sustainable development for the fisheries and aquaculture sectors can bring legitimacy to the process of working towards the sustainability of these sectors. It can also be a means of making the sectors more transparent for consumers, as well as, of course, ensuring that the sustainable development of these sectors also serves to further the human rights of those that they touch upon, and ensure more equitable development outcomes for all.

This means that strategies, plans and programmes for these sectors are built on human rights standards and informed by recommendations from human rights monitoring mechanisms. In turn, the SDGs can serve as a powerful framework to mobilise resources and partnerships for follow-up to related human rights recommendations.

Human rights standards and the lessons learned from their implementation can inform and guide the sustainable development of the fisheries and aquaculture sectors.

SUPPORTING A HRBA TO FISHERIES AND AQUACULTURE: THE SDG – HUMAN RIGHTS DATA EXPLORER

The SDG – Human Rights Data Explorer, is a new instrument to make the connection between human rights recommendations and the SDGs easy to operationalise in reporting and follow-up. The information in the database can directly support the operationalisation of a human rights-based approach.

---

The database lets users explore observations and recommendations made by international human rights mechanisms to their country through the goals and targets of the 2030 Agenda. The data can be further broken down by concerned rights-holder groups, issuing mechanism, and more.

The searchable database holds a complete record of recommendations and observations issued by the Universal Periodic Review, the Treaty Bodies, and Special Procedures. The database indicates the most salient links to SDG targets of each individual recommendation. The ‘Explore All’ option allows users to search for targeted recommendations to use in their specific area of work. Through links to the source document reference, the data can easily be matched up with existing tracking systems.
Recommendations from international human rights bodies can be relevant for individual or multiple SDG targets. This means that they can be used in a cross-cutting manner to guide and assess the sustainable development of the fisheries and aquaculture sectors and support the development of more integrated and holistic implementation plans and processes.

**Guyana**

23. The Committee recommends that the State party: (a) Establish the necessary regulatory framework and policies for business, in particular with regard to the extractive industry (gold and bauxite) and timber and fisheries projects – whether large or small scale – to ensure that they respect the rights of children and promote the adoption of effective corporate responsibility models; (b) Ensure that prior to the negotiation and conclusion of free trade agreements, human rights assessments, including on child rights, are conducted and measures adopted to prevent and prosecute violations, including by ensuring appropriate remedies; and, (c) Comply with international and domestic standards on business and human rights with a view to protecting local communities, particularly children, from any adverse effects resulting from business operations, in line with the United Nations “Protect, Respect and Remedy” Framework and the Guiding Principles on Business and Human Rights that were adopted by the Human Rights Council in 2008 and 2011, respectively.

**Iceland**

r) complete the comprehensive study on the root causes of low participation of women at all levels of the fishery industry and employ necessary measures to promote women’s participation in this sector

(TREATY BODIES)