

Flagging Rights, Realizing Responsibilities

The recent Zanzibar Workshop on coastal and fisheries management in eastern and southern Africa sought to flag the concerns of small-scale fishers

Between 24 and 27 June 2008 a workshop titled “Asserting Rights, Defining Responsibilities: Perspectives from Small-scale Fishing Communities on Coastal and Fisheries Management in Eastern and Southern Africa” (ESA Fisheries Workshop II or the Zanzibar Workshop) was jointly organized by the International Collective in Support of Fishworkers (ICSF), Masifundise Development Trust (MDT), South Africa, and the Western Indian Ocean Marine Science Association (WIOMSA), Tanzania, in collaboration with the World Forum of Fisher Peoples (WFFP), in Zanzibar, Tanzania.

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and comprised representatives of fishing communities, fishworker organizations, non-governmental organizations (NGOs), governments and the FAO.

Introducing the Zanzibar Workshop, Jackie Sunde, Member, ICSF, said fishing communities and their supporters should discuss and develop strategies on how to ensure that the small-scale fishing communities in the region could access fisheries resources, and enhance their access and user rights to fishing grounds and fishery resources. Sunde recalled that the idea behind bringing together communities and countries that share common borders and common water sources originated in the Indian Ocean Conference, 2001, organized for Indian Ocean partners jointly by ICSF and the Indian Ocean Institute (IOI). In 2004, the Masifundise Development Trust (MDT) had organized a small-scale fisheries conference in the Southern African Development Community (SADC) region.

These workshops led up to the ICSF workshop titled “Fishing Communities and Sustainable Development in Eastern and Southern Africa: The Role of Small-scale Fisheries” (ESA Fisheries Workshop I), held from 14 to 17 March 2006 in Dar es Salaam, Tanzania. While identifying pertinent issues, ESA I had also called for a follow-up meeting for the region, which resulted in ESA II, the Zanzibar Workshop.

Ian Bryceson, Professor, Norwegian University of Life Sciences, Ås, Norway, added that the workshop was also meant to help fishers generate more ideas to make their work and struggles more effective.

One key objective of the four-day workshop was to discuss how access to resources could be maintained or enhanced by securing access and user rights at various levels.

to resources could be maintained or enhanced by securing access and user rights at various levels. The workshop was also aimed to enable participating organizations to arrive at common positions on this issue at the forthcoming Global Conference on Small-scale Fisheries, titled “Securing Sustainable Small-scale Fisheries”, to be organized by the Food and Agriculture Organization of the United Nations (FAO) in Bangkok, Thailand, from 13 to 17 October 2008. The participants of the ESA Fisheries Workshop II were drawn from Kenya, Malawi, Mozambique, South Africa, Tanzania, Uganda and Zambia,

*This report has been prepared by **Sebastian Mathew** (icsf@icsf.net), Programme Adviser, ICSF, and **Neena Koshy** (icsf@icsf.net), Programme Associate, ICSF*

In the country presentations that followed, Letisia Chakumba, a fisherwoman from Tanzania, said the most important consideration was recognizing the right of fishers to participate in decision-making processes. She complained of lack of consultation with fishing communities in, say, establishing marine protected areas (MPAs). The government, she said, had the duty to protect the rights of fishing communities.

Solene Smith, a fisherwoman from South Africa, said traditional fishers are totally excluded from decisionmaking on what happens at sea or how their spaces are used in South Africa. For example, she said, during Hobie Cat (a type of catamaran) competitions, usually organized for rich South Africans, fishers cannot venture out to sea to make their daily living. This clearly shows how they are excluded from the process that decides about their living/working spaces. Lack of access to resources led to larger problems like increased poverty, which, in turn, resulted in gender-based violence, domestic violence and lack of self-esteem, she said. This has caused fishing communities to insist that they be involved in decisions and management plans that affect their lives and livelihoods, which will then help them decide how, where, when and what to fish.

Florence Okoth Nyalulu, an NGO activist from Uganda, pointed to the cultural belief among the country's fishing communities that a woman touching a fishing boat would bring bad luck. Such beliefs deny women access rights to resources. Most talk about women's rights is mere tokenism, she added, and women are still denied equality in inheritance of property. Women should be trained to manage economic enterprises so that they have alternative sources of income.

Tenure laws

Christiana Saiti Louwa, a member of the Elmolo tribe of Lake Turkana, Kenya, said the country's current land tenure laws are not in favour of fishing communities and other indigenous peoples owning resources. Fishing communities are not aware enough of their human rights. They are

marginalized from decision-making structures. Women are not allowed to own fishing equipment and cannot venture along the shores for fear of harassment, she said.

Farouk Bagambe, an NGO activist, from Uganda, pointed out that in the country's beach management units (BMUs), often considered vehicles for co-management, fishers are held accountable for the state of fishery resources; yet they have no rights to the resources. Bagambe said it is important to strengthen community fishing rights. The promotion of human rights was critical for the social development of fishing communities, he added. These rights included legally mandated rights to decent working conditions, gender equality, children's rights and the rights of other potentially vulnerable groups.

Mainza K Kalonga, representing the government of Zambia, said that the country's fisheries have long been open-access. With the collapse of many hinterland businesses and companies, fisheries activities provide a social safety net. Although women were once not allowed to fish due to traditional beliefs, both men and women now have equal access to fishery resources, he said.

Friday Njaya, representing the government of Malawi, said that the country's small-scale fisheries operate under a common-property regime, with rights and responsibilities assigned to



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specific groups of fishers. Although some informal traditional customary laws exist and are still practised in Malawi, they are not legally recognized by the government, he said. Gender discrimination results from socio-cultural influences. Women are prohibited from coming near newly built canoes. Women are involved mostly in traditional fish processing and marketing.

Sebastian Mathew, Programme Adviser, ICSF, said a whole gamut of fisheries scenarios, ranging from an open-access fisheries regime to a highly regulated quota-based fisheries regime, can be observed in the ESA region. He flagged the following as relevant issues: how to protect the access of artisanal fishers to fishing grounds and thereby to fishery resources; how to eliminate destructive fishing gear and practices; how to manage fisheries in inland

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and marine waters, especially in the exclusive economic zones (EEZs), by ensuring an appropriate management regime; how to ensure the participation of communities in decision-making processes; and how to integrate elements of local/traditional knowledge into fisheries management regimes. There is also a need to ensure a bottom-up perspective on conservation and allocation of fishery resources.

The forthcoming FAO Global Conference on Small-scale Fisheries will focus on securing user and access rights, Mathew said. A rights-based framework would involve a proper realization of both rights and duties. In an open-access system, where fishing spaces and resources are limited, a community may have to develop rules to govern access to the limited fishery resources through a rotational access system. Developing such rules was part of many traditional community management systems. The crux of the rights-based approach to fisheries management should be how to negotiate how much of ones' own rights has to

be given up to accommodate the rights of others.

Exploring the space for coherence is the essence of adopting the rights-based approach to fisheries, Mathew said. It was time to recognize fishers and their fishing practices and to come to an understanding about developing the fishers' own system of a rights-based framework. A rights-based regime for fisheries management could essentially mean that one is aware of one's obligations and duties as a fisher, he said. The rights-based approach should be appropriate for the fishery and the community in question. The challenge would be to develop the elements of such a framework based on already existing structures.

Christiana Saiti Louwa of Kenya commented that effective solutions should be found for the immediate problems of fishers, and that they should not unnecessarily wait for longer periods to gain recognition for their rights. Momade Bacar, a fisherman from Mozambique, agreed with Christiana, and added that there were severe conflicts between resident and migrant fishers who move across zones in Mozambican waters without actually respecting, or even being aware of, the rules and regulations. He said an immediate solution needed to be found for such transgressions.

Issa Ameir, a fisherman from Tanzania, observed that all countries that were represented at the workshop had some kind of management regime in their fisheries. Still, destructive or illegal fishing continued. Fishers were quite unaware of their rights or responsibilities and would also be unaware of the status of their fishery resources. Livelihood and food-security issues often come before conservation issues, he said. These, together with weak enforcement of management measures, breed illegal fishing.

Socially responsible

It was pointed out that although effective enforcement is crucial to fisheries management, a socially responsible approach can help improve management. Referring to a study done by Ian Bryceson, Kassim Kulindwa, Albogast Kamakuru, Rose Mwaipopo

and Narriman Jiddawi from Mafia Island, Tanzania, it was pointed out that the spurt in illegal fishing in the island coincided with the reopening of village schools. There was thus a clear link between illegal fishing and the need to meet the costs of school education, a human rights issue. If the government can provide financial assistance for children of fishing communities to buy schoolbooks and pay for school fees, a possible reduction in illegal fishing could be achieved, it was observed.

In the final analysis, in countries with poor capacity to invest in fisheries management, it was observed, the success of fisheries management lies perhaps in the moral realm (for example, peer pressure) and not in the legal domain. It was difficult to implement fisheries management only through command-and-control structures, and they would not succeed if communities did not take any responsibility for their implementation. If the needs of the poor in the community are addressed, there is a greater chance of them taking responsibility to conserve fishery resources.

Issa Ameir, a fisherman from Tanzania, said that it is easier to earn a living from fishing than from agriculture since a farmer has to wait long to harvest and sell his produce. If fishers are still poor, it is because they do not manage their finances well and often squander their money on alcohol and other vices. It is the responsibility of fishers to use less destructive gear and sustainable methods of fishing for the benefit of future generations. Fishers all over the world should have one common goal to help future generations earn respectable livelihoods, he concluded.

Hahn Goliath, a fisherman from South Africa, said it was difficult in his country to talk to fishers about their responsibility to protect and conserve resources for sustainable use, when the rights of fishers were not recognized. The small-scale fishers cannot be asked to practise sustainable fishing, he said, when the big companies are taking what they want. The argument of the small-scale fishers is that they are taking what rightfully belongs to them to put the days' food on the table.

A rights-based approach should legally and formally recognize the rights of small-scale fishing communities to practise their livelihood, he said. It is common for the tourism industry in South Africa to use pictures of traditional fishers carrying baskets of catch for sale at tourist cottages. While this may promote the tourism business, in reality, traditional fishers do not even have the right to put fish in their baskets.

One needs to be careful in criticizing fishers for spending their money on alcohol, he said. Fishers' dignity is violated when they go back to their respective homes empty-handed. They feel helpless for being unable to put food on the table for their children. The value of their livelihood and tradition is not recognized.

Responsibilities

Chief Chipepo, a traditional tribal chief of Zambia, said that though the meeting was focusing on the rights of fishers and fishing communities, their responsibilities were not discussed. It is important for governments to demarcate areas where fishers can fish, and areas on land that could be used for drying and processing fish. Once these rights are in place, fishers should accept the responsibility for managing the resources.

NEENA KOSHY/ICSF



Florence Okoth Nyalulu of Uganda, Friday Njaya of Malawi, Jackie Sunde of South Africa and Narriman Jiddawi of Tanzania at the Zanzibar Workshop

The chief gave an example from Zambia of hunters informing him beforehand about the animals they would hunt. The hunted animal is brought back to be shown to the chief, an act that would be recorded. Chief Chipepo added that resources should be used and not abused. Almost all the lakes in Zambia have been overfished. So it is the responsibility of fishers to look after the fish in the river and avoid destructive gear like mosquito nets.

Commenting on the intervention made by the chief, Sebastian Mathew of ICSF said that responsibility is indeed an important issue but one should be cautious to avoid putting the onus or responsibility only on fishing communities. It is equally important, while discussing rights and responsibilities, to keep in mind the responsibilities of others in society—including the government—towards fishers.

When a fisher is asked not to use a particular fishing gear or to fish in a particular fishing ground or not to catch a particular fish, it is the responsibility of the larger society to offer an alternative so that the children of the fishing community can go to school and be fed. Were the fishers to comply with all regulations and manage a catch after a huge effort, the returns they receive from marketing the catch

may be meagre. In such a situation, it is the responsibility of the government to make sure that fishers' get good prices for their catches.

The tourism industry, which makes huge profits, should be taxed, and the revenue thus earned should be redistributed for the benefit of the community. This money can be pooled together as a community fund and used to establish schools, hospitals and other public amenities for the community.

It is not right, or practicable, to see everything as fishers' responsibility. The fishers and their communities are sometimes made victims of conservation efforts. If the larger society opts for conservation, it should make sure that it pays for the consequent loss of livelihood of the fishing community. There should be some mechanism for redistribution of profits. Facilities could be created in coastal areas so that the community feels their needs are looked after by the larger society in response to conservation measures that disrupt their fisheries. It is important to deal with responsibility within this framework, Mathew concluded.

Jackie Sunde of South Africa said that conventional definitions of small-scale fishers took into consideration only the harvesting aspect of fisheries, and not the pre- and post-harvest activities; hence, by default, it is quite a male-dominated definition, which fails to value the activities of women prior to the fishing, which include nurturing, producing and reproducing their families and households, and also engaging in a range of post-harvest activities in the fisheries.

Empowering women

The perceptions about empowering women in the region through a rights-based approach must be stated very clearly, Sunde continued. It is important to focus on the need to recognize women's rights within the sector, especially their right to participate in the fisheries decision-making processes, which, in general, is reserved for men. For a rights-based approach to be effective in management regimes, it should be a community-based rights approach, she added.

NEENA KOSHY/ICSF



Christiana Saiti Louwa of the El Molo tribe, Lake Turkana, Kenya, at a session on community organization at the Zanzibar Workshop

An individualized, privatized sort of fisheries needs to be strongly opposed. Even within the community-based approach, women's voices should be heard. There is need for specific measures to ensure that within a community-based, rights-based approach, women are protected.

A code of conduct or set of technical guidelines needs to be developed for those community entities (whether it is a BMU or any co-management institution) to ensure that women enjoy equal benefits as men. Equal benefits do not necessarily mean exactly the same thing but the ability to avail of similar and matching benefits all along the entire fish supply chain, Sunde said.

A range of issues related to implementing supportive measures to promote value addition, income generation and redistribution of benefits through processing, marketing and trade needs to be looked at because women are located at specific points in these sectors. Therefore, in a rights-based approach, it is important for government to provide incentives that promote labour-intensive local trade that supports women. Governments should be asked to put more money into research to deepen understanding of the roles of women and what would empower them and enable them to become more economically independent. This could change the material basis of their oppression, Sunde added.

It was important to call on FAO and governments to dedicate resources for capacity building to make women aware of their rights and thereby realize, their rights. It is also necessary to develop indicators that will track some of the tangible facts of discrimination that women experience so that when the rights-based approach is evaluated, it would be possible to measure to what extent women in small-scale fisheries are benefiting from more egalitarian imperatives.

'Gender equity', 'gender mainstreaming' and so on are terms generally used in an instrumental fashion in technical, donor-driven programmes merely to add some gender spice into the pot of development and stir up a bit of interest and appetite. What is more pertinent is to really work towards

gender-just fisheries and recognize that women have rights and also the right to realize these rights. A rights-based approach needs particular focus and thought on how women will benefit from it in practice and not just on paper, Sunde concluded.

Hahn Goliath, the fisherman from South Africa, raised some serious concerns on gender equality, based on the South African experience. In South Africa, women never went to sea. The new fisheries policy, which gives fishing rights to women, insists that to obtain fishing rights, women need to go out to sea. As a result of this forced entry, some other traditional fisher will be denied a traditional right of access to the sea. In such a context, what would the term 'equal' mean, he asked.

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Most of the small-scale boats in South Africa are small undecked vessels. Women on these vessels could face problems like the lack of toilet facilities. What are the implications for their families and households if women were to go out to sea to fish, he asked. What would it mean for a mother who cares for her children and their security? Particularly if the children are girls, what are the implications in a country like South Africa, which reports one of the highest rates of rape in the world? What would it mean, in terms of potential sexual abuse, for both parents to go to sea? In such circumstances, the implication of any policy on equality needs to be thought through, Goliath said.

New positions

Solene Smith, the fisherwoman from South Africa, said that women are indeed moving into new positions. For example, Sea Harvest, one of the largest seafood companies in South Africa, employs 64 women in important positions as captains, skippers and other workers on board larger vessels. There are other women whose men drowned

The Zanzibar Statement

Preamble

We, 45 participants from Kenya, Malawi, Mozambique, South Africa, Tanzania, Uganda, and Zambia, representing small-scale, artisanal and indigenous fishing communities engaged in inland and marine fisheries; fishworker organizations and non-governmental organizations; researchers; activists; as well as some representatives of government institutions from the Eastern and Southern African (ESA) region;

Having convened at a Workshop 'Asserting Rights, Defining Responsibilities: Perspectives from Small-scale Fishing Communities on Coastal and Fisheries Management', in Zanzibar from 24 to 27 June 2008, to develop a shared perspective on the rights-based approach to fisheries in the context of the FAO Global Conference on Small-scale Fisheries, Bangkok, from 13 to 17 October 2008;

Being concerned about the negative impacts of globalization such as threats arising from indiscriminate industrial shrimp-trawling and distant-water tuna-fishing, tourism development, and industrial aquaculture; safety of fishers and fishing operations in marine and inland waters; the creation of non-participatory and exclusive marine protected areas, inland and coastal pollution, discrimination against women and high incidence of HIV/AIDS in fishing communities; and lack of respect for customary land rights of fishing communities;

Being aware of responsible fishing practices and customary rights of coastal and inland fishing communities as well as local and traditional knowledge of fishers in the region;

Affirming that fishing is a way of life for coastal and inland fishing communities who are the custodians and responsible users of marine and inland fishery resources; and

Believing that dependence of fishing communities on fishery resources and associated and dependent ecosystems is shaped by the need to meet livelihood requirements and food security in the struggle to eradicate poverty, as well as the need to recognize cultural and spiritual values;

Hereby, adopt the following Statement addressed to our governments and the FAO:

Rights of Fishing Communities

1. The fishing communities should have the full enjoyment of the Universal Declaration of Human Rights and international human rights law. The indigenous fishing communities should have the full enjoyment of the UN Declaration on the Rights of Indigenous Peoples (2007).
2. The rights of fishing communities to safe drinking water, sanitation, health and HIV/AIDS prevention and treatment services, and education and training, should be recognized.
3. A rights-based approach to fisheries should recognize the customary rights, local knowledge, traditional systems and practices, and the rights to access marine and inland resources of small-scale, artisanal and indigenous fishing communities, as well as the right to land for homestead, fishery-related, and other livelihood-related activities. Furthermore, such an approach should enhance collective, community-based access and management regimes.
4. All the rights and freedoms that are agreed to as relevant for rights-based approach to fisheries, should apply equally to all men and women of fishing communities.

Fishing Rights

5. The fishing rights should not be treated as a tradable commodity and they should be seen as an integral part of human rights. A rights-based approach to fisheries should not lead to the privatization of fisheries resources.
6. Efforts should be made to improve the safety of small-scale and artisanal fishing operations and to ensure safety of fishers in marine and inland waters. Labour rights and safe working and living conditions of fishers should be guaranteed by the ratification and implementation of the ILO Work in Fishing Convention, 2007, and by extending its relevant provisions to inland and shore-based fishers and fishing operations.
7. Mechanisms for the monitoring and review of the legislative framework

for the effective implementation of this rights-based approach should be developed and implemented.

8. Financial and capacity-building support should be made available to recognized fishworker organizations, community-based, non-governmental organizations and research institutions to implement programmes to promote fishing communities' awareness of rights and to strengthen capacity to lobby and advocate for their rights.
9. Specific measures to address, strengthen and protect women's right to enable them to participate fully in the fishery should be developed. These measures should work towards the elimination of all forms of discrimination against women and should secure their safety against sexual abuse.
10. Conservation initiatives, including MPAs, coastal area management programmes, tourism interventions and industrial aquaculture should respect the rights of coastal communities to unhindered access to beaches, landing sites and fishing grounds.

Fisheries governance

11. The management of inland and marine fishery resources should be devolved to the local level in the region. Programmes for devolution of fisheries management should be preceded, and accompanied, by capacity-building programmes for fishers' and fishing community organizations to enhance negotiating power as well as to build up capacity for responsible fisheries management.
12. The decisions affecting the access and use of land or water bodies currently enjoyed by, or of benefit to, fishing communities, should be made with the full and effective consultation and involvement of the fisher people and should proceed only with their full, prior and informed consent.

Conflict resolution

13. Mechanisms should be developed to resolve and mitigate conflicts between industrial and small-scale, artisanal fishing, as well as between different fishing groups and interests. Particular attention should be given to mitigating conflicts between industrial bottom trawling and small-scale non-trawl fishing.

IUU and industrial fishing

14. Effective and timely initiatives should be undertaken to combat the incidence of illegal, unreported, and unregulated (IUU) fishing in the lakes as well as in the South and East African exclusive economic zones, which impacts the viability of the small-scale fisheries.

Post-harvest issues

15. Measures should be developed to provide access to infrastructure and access to credit to local processing, trade and marketing initiatives. In this context, greater emphasis should be placed on local, national and regional markets within Africa. Further, measures should be put in place to ensure that the benefits of value addition along the fish supply chain are enjoyed by local fishing communities and that vulnerability to middlemen, transporters and global trade processes is minimized.

Coastal and inland pollution

16. Measures should be developed to address all forms of pollution that are degrading the marine and inland aquatic environment and thus progressively destroying the livelihoods of marine and inland fishing communities.

In conclusion

17. For the effectiveness of a rights-based fisheries approach we recognize the indivisibility of: (i) fishery access and user rights, (ii) post-harvest rights and (iii) human rights, and we believe that the development of responsible and sustainable small-scale artisanal and indigenous fisheries is possible only if they are addressed in an integrated manner.
18. We call upon governments and FAO to ensure that the principles, mechanisms, and measures proposed in this Statement are recognized in the development of a rights-based approach to small-scale, artisanal and indigenous, inland and marine fisheries in the ESA region.

—*This Statement is from the workshop, "Asserting Rights, Defining Responsibilities: Perspectives from Small-scale Fishing Communities on Coastal and Fisheries Management in Eastern and Southern Africa" 24 to 27 June 2008 (Zanzibar Workshop)*

NEENA KOSHY/ICSF



The Zanzibar Workshop called for international alliances to synthesize the voices of fishers around the globe into one single clarion call

at sea and who have inherited their boats and gear and now want to go out to sea. Such women cannot be stopped; rather, they need to be empowered to go fish. Meanwhile, the cultural and personal preferences of those women who do not wish to go to sea should be respected, even as those who want to go out, encouraged, said Smith.

Goliath said it was important to see what fishers would like to assert in a rights-based approach in terms of coastal development, alternative livelihood options, land issues and conservation initiatives like MPAs. Drawing on the earlier suggestion to tax the tourism industry to plough back part of its profits to the larger community, similar arrangements should be worked out for conservation and related endeavours, he said. The community's right to participate in the planning of some of these development efforts should also be ensured, Goliath added.

Jackie Sunde of South Africa summed up the issues that were beginning to emerge for securing the access rights of small-scale fishers in the ESA region:

- greater definition and articulation of small-scale fishers' rights in legal and policy frameworks;
- the need to define the right to preferential access to resources (with associated restrictions on industrial/commercial vessels);
- introduction of zonation and vessel/gear/effort controls as mechanism to secure these rights;
- recognition, and integration, of indigenous and traditional knowledge with scientific knowledge systems;
- improvement of research on the status of fish stocks and developing a joint decision-making mechanism on sustainable levels of fish harvesting;
- introduction of a consultative process to initiate restrictions on fishing craft and gear, also based on indigenous knowledge; and enforcement of regulations related to destructive gear and fishing practices;
- ensuring the right to participate in decisionmaking through structures such as co-management committees or BMUs, to move towards a greater balance between conservation goals

and livelihood rights, and to ensure sustainable rights to access and use in the context of resource management tools like MPAs;

- ensuring access to adequate credit and financial support; and
- introducing and protecting measures to promote and protect women's access to resources and assets.

Christiana Saiti Louwa of Kenya said that the way forward was to create awareness of the plight of fishing communities, in the context of the denial of their rights. Talking about rights was the first step towards internalizing these issues, she said. It is important to formulate a vision, as fisherfolk, about what to achieve, and a commitment to attain the goals and rights. Another crucial step was to educate governments on these issues from the perspective of fishing communities, through meetings and interactions, she said. It was also important to network and communicate with other fishing communities and organizations working on coastal, inland and fisheries issues.

It was clear from the Zanzibar Workshop that international alliances need to be formed to synthesize the voices of fishers around the globe into one single clarion call that will potently flag the concerns of small-scale fishers to the world. **3**

For more



icsf.net/icsf2006/jspFiles/eastAfrica/index.jsp

ICSF website on ESA Workshop

4ssf.org

FAO Global Conference on Small-scale Fisheries

www.masifundise.org.za/

Masifundise Development Trust

www.sadc.int/fanr/naturalresources/fisheries/index.php

Fisheries page of the Southern African Development Community

www.swiofp.net

South West Indian Ocean Fisheries Project