

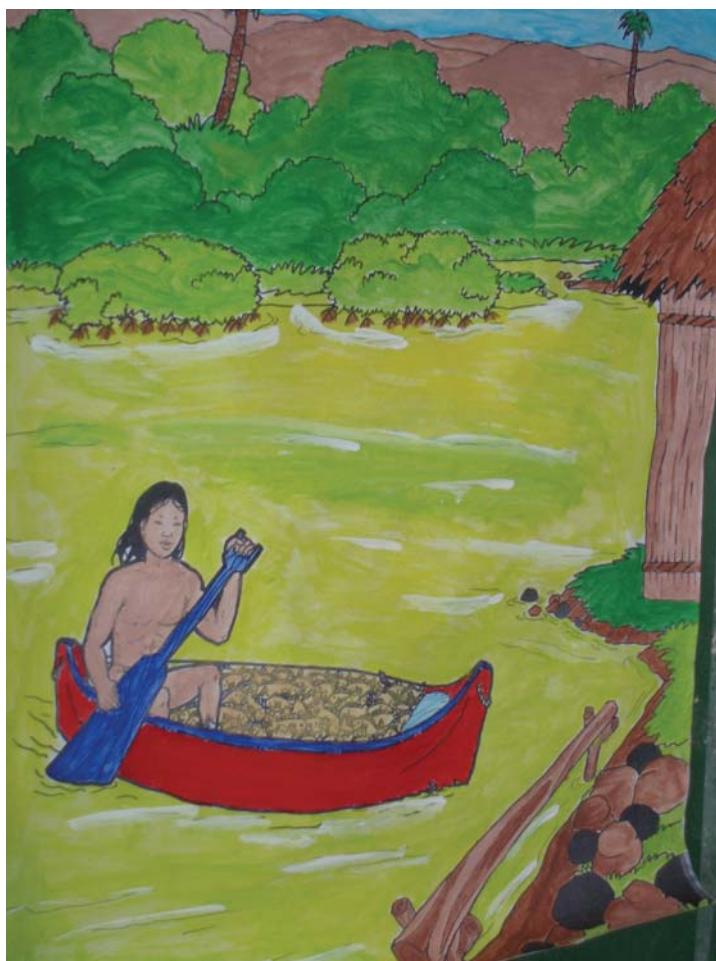
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SAMUDRA

REPORT

THE TRIANNUAL JOURNAL OF THE INTERNATIONAL COLLECTIVE IN SUPPORT OF FISHWORKERS



4SSF Conference

Human Rights of Fishers

Indigenous Peoples

Ecolabelling

Subsidiarity Principle

Privatization of Mangroves

Fisheries, Communities, Livelihoods



ICSF is an international NGO working on issues that concern fishworkers the world over. It is in status with the Economic and Social Council of the UN and is on ILO's Special List of Non-governmental International Organizations. It also has Liaison Status with FAO.

As a global network of community organizers, teachers, technicians, researchers and scientists, ICSF's activities encompass monitoring and research, exchange and training, campaigns

and action, as well as communications. SAMUDRA Report invites contributions and responses. Correspondence should be addressed to Chennai, India.

The opinions and positions expressed in the articles are those of the authors concerned and do not necessarily represent the official views of ICSF.

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ARTISANAL FISHERS ASSOCIATION, SOUTH AFRICA

SAMUDRA

REPORT

THE TRIANNUAL JOURNAL OF THE INTERNATIONAL COLLECTIVE IN SUPPORT OF FISHWORKERS

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J F HELLIO AND N VAN INGEN

FRONT COVER



A painting depicting the indigenous Kuna Yala region of Panama
Courtesy: Yadibaler Lopez

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BACK COVER



Fishing boats
at San Antonio harbour, Chile
Photo: Patricio Igor Melillanca/
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Human Rights

A Human-rights Approach to Fisheries

Adopting a human-rights approach to fisheries and fishing communities is really not a matter of choice, but rather an obligation

In some ways, the Global Conference on Small-scale Fisheries (officially titled "Securing Sustainable Small-scale Fisheries: Bringing Together Responsible Fisheries and Social Development", and abbreviated as 4SSF), co-organized by the Food and Agriculture Organization of the United Nations (FAO) and the Department of Fisheries, Thailand, from 13 to 17 October 2008, at Bangkok, was historic. For the first time, FAO took the lead in organizing a meeting that focused exclusively on small-scale fisheries. More importantly, conscious efforts were made to ensure that a significant proportion of the conference participants were representatives of fishworker organizations and non-governmental organizations (NGOs) supporting small-scale fisheries. However, while the large representation of small-scale fisher people and NGO supporters was heartening, the low representation of governments was disappointing.

Civil society participants came to the 4SSF Conference well prepared. A series of preparatory workshops in Asia, Africa and Latin America, organized by the International Collective in Support of Fishworkers (ICSF), along with other organizations, had explored fishworker perspectives on the themes of the conference. Apart from the statements adopted at these workshops, the World Forum of Fisher Peoples (WFFP) had come prepared with its own statement, arrived at through a participatory process. And, at the Civil Society Preparatory Workshop, also held at Bangkok prior to the 4SSF Conference, civil society groups arrived at a consensus statement that drew on all the earlier processes.

The Civil Society Statement (see page 7) captures the aspirations and perspectives of small-scale fishing communities, and needs to be taken seriously by all relevant organizations and governments. The central and unequivocal message from the Statement is that the human rights of fishing communities are indivisible,

and that responsible and sustainable fisheries is possible only if the political, civil, social, economic and cultural rights of fishing communities are addressed in an integrated manner.

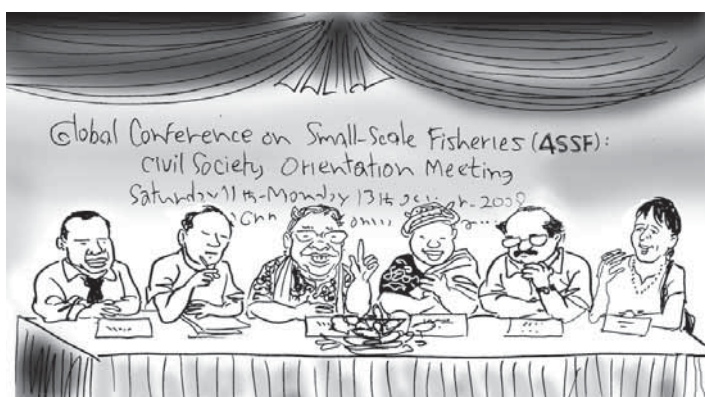
This message was reiterated throughout the Bangkok meets: It was repeatedly emphasized that achieving human rights is an end in itself, and adopting a human-rights approach is really not a matter of choice, but

rather an obligation arising from the United Nations Charter and the Universal Declaration of Human Rights, and subsequent legally binding human-rights instruments. The resounding call was for adopting a human-rights yardstick for all interventions related to fisheries and fishing communities, and,

indeed, all vulnerable groups.

Several proposals were put forward on the final day of the 4SSF Conference to take this agenda forward. Civil society participants were emphatic that protecting the human rights of small-scale fishing communities needs wider endorsement, particularly at the United Nations (UN), taking a leaf from the recently adopted UN Declaration on the Rights of Indigenous Peoples.

There were also calls addressed specifically to the FAO's Committee on Fisheries (COFI). The Civil Society Statement highlighted the need to include a specific chapter in the Code of Conduct for Responsible Fisheries on small-scale fisheries, recognizing the obligations of States towards them. There were also calls for a separate sub-committee on small-scale fisheries, and for ensuring that small-scale fisheries is declared a permanent agenda item during COFI, so that it gets the attention it deserves. Some participants were in favour of an International Plan of Action (IPOA) on Small-scale Fisheries. COFI needs to take the message from the 4SSF Conference seriously, and explore the various options before it to take forward the agenda of a human-rights approach to fisheries and fishing communities.



The Right Form of Rights

Deliberations at the 4SSF Conference at Bangkok seemed to offer hope for a shift away from the customary simplistic thinking on rights-based management in fisheries

4

The Global Conference on Small-scale Fisheries (officially titled “Securing Sustainable Small-scale Fisheries: Bringing Together Responsible Fisheries and Social Development”, and abbreviated as 4SSF), co-organized by the Food and Agriculture Organization of the United Nations (FAO) and the Department of Fisheries, Thailand, from 13 to 17 October 2008, at Bangkok, will surely go down in history as signalling an end to the simplistic approach to rights in fisheries.

For long, the simplistic view held that fishery managers could solve problems merely by handing out the right to fish to whomsoever they pleased. This perspective did not really differentiate those who are allocated fishing rights, be they fishers,

social, economic and human rights. Figuring out the right form of rights requires an understanding of all this, something that the simplistic view ignores.

The simplistic view is popular with those promoting property rights in fisheries. It has dominated the ‘rights-based management’ paradigm, the subject of many treatises and conferences. The result has been the excessive promotion of one form of rights—individual transferable quotas (ITQs)—which is remarkably unsuitable and damaging to small-scale fisheries.

Unfortunately, FAO, the principal organizer of the 4SSF Conference, has been party to these simplistic confluences on rights-based management, the worst example perhaps being the various ‘FishRights’ conferences it has facilitated. However, it is not only FAO that has been at fault. Academics—including myself—have been writing fairly thoughtlessly about ‘rights-based management’, though admittedly taking a reasonably broader approach that avoids the worst of the simplistic thinking. But that’s still not enough. Frankly, too many of us have been caught up in an overly narrow approach to rights in fisheries.

So when we talk about access rights and management rights, let us do it within the context of social, economic and human rights—of individuals and communities.

corporations or communities: All will be well as long as rights are just handed out—so goes the simplistic view..

Despite the element of credibility in that view—that if fishers have secure access to their fisheries, they will find it worthwhile to take care of the resources and hence management is more likely to succeed—it misses some key ingredients. Among these are: the different forms of rights (to access the fishery, to take part in management); the various holders of rights (fishers, communities); the frequent occurrence of pre-existing rights in many locations; and the need to link fishing rights with

Basic premise

So how do we move to a bigger, better, non-simplistic vision of rights? First, let’s consider the term ‘rights-based management’. True, this expression has been misused, but let us look at those two words to examine what they really mean. Surely, the basic premise behind them is that fisheries management needs to take place in the context of rights—all the various forms of rights.

*This commentary is by **Anthony T Charles** (tony.charles@smu.ca) of Saint Mary’s University, Halifax, Nova Scotia, Canada*

What then are the rights to be considered? Given their mandate, fisheries agencies may be inclined to focus only on so-called 'use rights' over access to the fishery. That is where the attention has been focused, and it is worthy of some attention. But we need a broader vision of rights; so we will have to add social, economic and human rights to the picture—rights that are fundamental and cannot be given out or taken away by governments. To this we ought to add a focus on collective, or community rights, which may work particularly well in some small-scale fisheries, but which have received too little attention. Management rights need attention too—the right to be involved in managing a fishery (as in co-management). Finally, let's not forget that along with rights come responsibilities. Why not talk then about 'responsibilities-based fisheries management'?

The broader view of rights in fisheries is then a multi-faceted mix that, in its entirety, can be good for small-scale fisheries, good for communities, and good for the sustainability of coastal ecosystems. Moving out of the simplistic mode of thinking into a broader view of rights can, and will, have a big impact—just as how challenging the equally simplistic 'tragedy of the commons' thinking has moved us ahead over the past couple of decades.

So when we talk about access rights and management rights, let us do it within the context of social, economic and human rights—of individuals and communities. Let us recognize that rights may already be in place; there are certainly many documented cases of this in small-scale fisheries. And let us move towards the 'bigger picture' that comes with the realization that the fisheries 'silo' really must connect to broader policy and legal frameworks, and to the well-being of coastal communities, in order to address, in a holistic way, the many issues facing small-scale fisheries. For example, ensuring access rights to subsistence fishing in coastal communities may serve food-security goals, and incorporating post-harvest aspects in rights discussions may help

reinforce the rights of women involved in marketing fish.

To get started, let us push for a re-defining of 'rights-based management' in fisheries. Every time we hear someone promoting fishing rights, or rights-based management, let us ask them whether they are speaking of the full range of rights that has to be considered, or whether they are still talking simplistically...

And now to look back on the 4SSF Conference. I had the opportunity to put forward the above thoughts early in the conference. Admittedly, my 'prediction' was as much a hope as anything, but that hope arose from two key realities. First, the conference itself was structured in a manner that lent it the potential to make progress. Of the three main themes of the conference itself, two focused on rights: (i) access rights and (ii) the links of fishing rights with human rights. This set the scene for progress in broadening the vision of rights in fisheries.

Civil Society Workshop

Second, a majorly successful event took place before the conference began—the Civil Society Preparatory Workshop organized by fisherfolk organizations, non-governmental organizations (NGOs) and other civil society organizations. Over a hundred people

HARINI KUMAR/ICSF



Panel session at the 4SSF Conference in Bangkok. The Conference was structured in a manner that lent it the potential to make progress

from around the world succeeded in developing a statement on the policies and directions needed to improve the well-being of small-scale fisheries worldwide. The consensus document that they ironed out galvanized the main conference, and will undoubtedly be used in later discussions on many fronts. A key element of the Statement was the need to factor in social, economic and human rights into our thinking on fishery rights.

Progress at the 4SSF Conference was not all smooth. The first day focused largely on access rights, and, to some extent, management rights, but not on building the linkages to human rights and community rights. The second day turned to post-harvest and trade aspects. While these are certainly relevant to small-scale fisheries, the emphasis on them did not really

Now the momentum needs to be maintained—through research and documentation of the conceptual advances in connecting the various forms of rights...

advance the agenda of developing a broader vision of rights. The third day of the conference, however, managed to bring everything together, as it were, and one could sense the palpable energy in the air as a strong set of plenary speakers and excellent discussions synthesized the ideas on rights into a package that could potentially move things forward.

On the final, fourth day of the conference, a panel of diverse participants spoke positively of the progress made thus far. By then, fisher organizations were already beginning to move to the next step of consolidating and presenting their positions to the forthcoming meeting of the FAO Committee on Fisheries (COFI) early in 2009. (The ups and downs over the course of the week-long conference were well documented in an impressive newsletter, *Daily Rights*, produced by the civil society group, and available at <http://sites.google.com/site/smallscalefisheries/>).

Will all that happened at Bangkok lead to a transformation in thinking on

fishery rights? Will there be success in moving beyond the simplistic thinking that has become commonplace in too many quarters? Such a paradigm shift will be a challenge, no doubt, but I feel more confident about my prediction about the end of simplistic thinking in rights-based fisheries management, having seen momentum in the right direction. In particular, the 4SSF Conference has, hopefully, once and for all, institutionalized a recognition of the need to:

- connect fishery rights to social, economic and human rights;
- take into account traditional or pre-existing rights;
- pay attention to community-level rights and local stewardship opportunities;
- broaden perspectives to include post-harvest aspects; and
- look beyond the fishery 'silo' in addressing rights.

Now the momentum needs to be maintained—through research and documentation of the conceptual advances in connecting the various forms of rights, through ongoing interactions between fisher organizations and FAO (notably to prepare for the 2009 COFI meeting), through the linking of rights to broader frameworks such as the ecosystem approach to fisheries, and through an evolution, particularly at the national level, of comprehensive multi-sectoral approaches to rights. The coming months will surely be critical in making progress.

For more



www.fao.org/DOCREP/003/X7579E/X7579E00.HTM

Use of Property Rights in Fisheries Management - FAO

www.icsf.net/icsf2006/uploads/publications/dossier/pdf/english/issue_82/ALL.pdf

Sizing Up: SAMUDRA Dossier

sites.google.com/site/smallscalefisheries/newsletter

Daily Rights Newsletter

Recognizing Rights and Freedoms

The following Statement by civil society organizations at Bangkok sought to correct the neglect of small-scale and indigenous fisheries, so as to avert impending disaster and conflict

Preamble

We, 106 participants from 36 countries, representing small-scale fishing communities and indigenous communities dependent on fisheries for life and livelihood, and their supporters, having gathered in Bangkok from 11 to 13 October 2008 at the Civil Society Preparatory Workshop;

Building on prior preparatory processes, in particular the Statement developed by the World Forum of Fisher Peoples (WFFP) and preparatory workshops organized by the International Collective in Support of Fishworkers (ICSF) and other organizations in Asia (Siem Reap, Cambodia), Eastern and Southern Africa (Zanzibar, Tanzania), and Latin America (Punta de Tralca, Chile);

Recognizing the principle of food sovereignty outlined in the Nyelini Declaration;

Declaring that the human rights of fishing communities are indivisible and that the development of responsible and sustainable small-scale and indigenous fisheries is possible only if their political, civil, social, economic and cultural rights are addressed in an integrated manner;

Recognizing that all rights and freedoms apply equally to all men and women in fishing communities and recognizing the continued contribution of women in maintaining the resilience of small-scale fishing communities;

Declaring that the dependence of fishing communities on aquatic and coastal living natural resources is shaped by the need to meet life and

livelihood in their struggle to eradicate poverty and to secure their well-being as well as to express their cultural and spiritual values;

Recognizing the complementarity and interdependency of fisheries-related activities within fishing communities; and

Recognizing the interconnectedness between the health and well-being of coastal communities and of aquatic ecosystems;

Hereby call upon the Food and Agriculture Organization of the United Nations (FAO), other United Nations agencies, regional fisheries bodies and our respective national governments, to:

...the human rights of fishing communities are indivisible...

Securing access rights

1. Guarantee access rights of small-scale and indigenous fishing communities to territories, lands and waters on which they have traditionally depended for their life and livelihoods;
2. Recognize and implement the rights of fishing communities to restore, protect and manage local aquatic and coastal ecosystems;
3. Establish small-scale fisheries as the preferred model for the exclusive economic zone (EEZ);
4. Establish and enforce measures to prohibit industrial fishing in inshore waters;

*This **Statement** was finalized by participants of the Civil Society Preparatory Workshop, on 13 October 2008, at Bangkok, prior to the Global Conference on Small-scale Fisheries, organized by the Food and Agriculture Organization of the United Nations (FAO) and the Department of Fisheries, Thailand*

PATRICIO IGOR MELILLANCA/ECOCEANOS



A total of 106 participants from 36 countries met at the Civil Society Preparatory Workshop at Bangkok, prior to the Global Conference on Small-scale Fisheries

5. Prohibit illegal fishing and all destructive fishing gear and practices;
6. Reverse and prevent the privatization of fisheries resources, as through individual transferable quotas (ITQs) and similar systems that promote property rights;
7. Reverse and prevent the displacement of fishing communities through the privatization of waters and lands of fishing communities for activities that include tourism, aquaculture, defence/military establishments, conservation and industry;
8. Ensure that the declaration, establishment and management of marine protected areas (MPAs) bindingly involve the active participation of local and indigenous communities and small-scale fishers;
9. Ensure the integration of traditional and indigenous knowledge and customary law in fisheries management decisionmaking;
10. Guarantee the equal participation of small-scale and indigenous fishing communities in fisheries and coastal management decisionmaking, ensuring their free, prior and informed consent to all management decisions;
11. Recognize the traditional fishing rights of small-scale and indigenous fishers from immediately

neighbouring adjacent States and set up appropriate bilateral arrangements for protecting their rights;

12. Protect all marine and inland water bodies from all forms of pollution, and reclamation;

13. Reject industrial aquaculture and genetically modified and exotic species in aquaculture;

14. Recognize, promote and protect the diversified livelihood base of fishing communities.

Securing post-harvest rights

15. Protect access 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;
16. Improve access of women to fish markets, particularly through provision of credit, appropriate technology and infrastructure at landing sites and markets;
17. Ensure that international trade does not lead to environmental degradation or undermine the human rights and food security of local fishing communities;
18. Put in place specific mechanisms to ensure that trade promotes human development, and that it leads to equitable distribution of benefits to fishing communities;
19. Effectively involve fishing communities in negotiations dealing with international trade in fish and fish products;
20. Guarantee institutional arrangements that give priority to fish for local consumption over fish for export or for reduction to fishmeal;
21. Regulate processing capacity, particularly in export-oriented fisheries, to be in line with the sustainability of the fishery;

22. Reject ecolabelling schemes, while recognizing area-specific labelling that identifies socially and ecologically sustainable fisheries;

Securing human rights

23. Protect the cultural identities, dignity and traditional rights of fishing communities and indigenous peoples;
24. Implement legal obligations arising from the Universal Declaration of Human Rights (UDHR) and subsequently adopted human rights legislation, including the Convention on the Elimination of Discrimination against Women (CEDAW), the Convention on the Rights of the Child, and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP);
25. Guarantee the rights of fishing communities to basic services such as safe drinking water, education, sanitation, health and HIV/AIDS prevention and treatment services;
26. Guarantee the 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 conditions;
27. Implement the ILO Work in Fishing Convention 2007, and extend its provisions to include inland and shore-based fishers;
28. Ensure that States seek the free, prior and informed consent of small-scale fishing communities and indigenous peoples before undertaking any project or programme that may affect their life and livelihoods;
29. Adopt specific measures to address, strengthen and protect women's right to participate fully in all aspects of small-scale fisheries, eliminating all forms of discrimination against women, and securing their safety against sexual abuse;
30. Take urgent and immediate steps for the release and repatriation of arrested fishers, in keeping with the provisions of UNCLOS and human-rights instruments;

31. Protect men and women engaged in regional cross-border fisheries trade against harassment;
32. Enact and enforce legislation to create autonomous disaster prevention and management authorities based on the need to rebuild and revitalize small-scale and indigenous fisheries;
33. Establish mechanisms to support fishing communities affected by civil war and other forms of human-rights violations, to rebuild their lives and livelihoods;
34. Improve institutional co-ordination at all levels to enhance the well-being of fishing communities;
35. Guarantee rights of fishing communities to information in appropriate and accessible forms; and
36. Provide support to capacity-building of fishing and indigenous communities to participate in governance of coastal and fisheries resources.

National governments have a legal obligation to implement international human-rights instruments. We demand that all governments take these obligations seriously and create the environment for fishing communities to fully enjoy these rights. We demand the urgent establishment of independent mechanisms to monitor, and report on, the implementation of human-rights obligations.

We call on the FAO's Committee on Fisheries (COFI) to include a specific chapter in the Code of Conduct for Responsible Fisheries (CCRF) on small-scale fisheries, recognizing the obligations of States towards them.

We also recognize our responsibility as representatives and supporters of small-scale and indigenous fisheries to assist the local communities, who have so far been marginalized, to claim their rights at national levels.

We reiterate our deep sense of urgency about the neglect of small-scale and indigenous fisheries, and demand immediate action to avert impending disaster and conflict.



For more



sites.google.com/site/smallscalefisheries/statement/statement.pdf?attredirects=0

Civil Society Workshop Statement

www.icsf.net/SU/Bk/EN/5

ICSF Guidebook: Understanding the Work in Fishing Convention, 2007

www.un.org/Overview/rights.html

The Universal Declaration of Human Rights

Carry On with the Struggle

The experience of indigenous peoples in using international legal instruments to advance their case for better human rights, has lessons for fisher peoples worldwide

Diuxi xquídxepé laá tu, runi gurdxhitu naá rarí, ti ganda guiniénia laá tu, chupa, chonna didxa ni huayuni un, ca dxiña stií un pur ca squidxi nuu.

Thank you very much for inviting me to participate with you, and to say a few words about the work we have done in the struggle for the rights of our indigenous peoples.

I would like to emphasize that I am not here to bother you about the situation in which our indigenous peoples are living, as this is well known to you, from their preceding speeches. Above all, I am here because governments are not, and there are

Peoples (UNDRIP), which my colleagues here have already mentioned.

For this reason, I would like to highlight a few things that could be useful for fishing communities in demanding their rights; from our experience, these have proved useful for indigenous peoples. First of all, what we indigenous peoples have done is to announce that international legal instruments exist, to which the great majority of countries are signatories. Two fundamental instruments are the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights.

As is well known, international covenants that governments have signed up to are, in international legal terms, binding on them, while this is not the case with declarations. What have we gained from these covenants? We took what is established in Article 1, something that is common to both covenants. That Article points out that “all peoples have the right to self-determination”. Note that it says “all peoples”; it does not say “governments”, it does not say “nations”, but it refers to “all peoples”, and, in international law, ‘peoples’ are not legally defined as being of first- or second-class—all peoples are equal.

Self-determination

As indigenous peoples, we claim the rights that are established by the two international covenants. These are the basic tenants that we use. Above all, as indigenous peoples, we claim the right to self-determination. The second paragraph of the Article from the two international covenants notes that “all people have the right to

Two fundamental instruments are the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights.

others here who are suffering quite difficult circumstances in the same way that our indigenous peoples are.

We have come to this conference to make some contribution that will help us in the struggle to secure our right to food and respect for our human rights, and to obtain recognition for our lands, our territories and our natural resources.

This was the vision that encouraged us to take our struggle to the United Nations (UN) so as to get recognition for our rights as indigenous peoples. In particular, I have been a member of the numerous groups of indigenous brothers and sisters who, for over 20 years, have been struggling in UN forums for recognition of the UN Declaration on the Rights of Indigenous

This presentation by **Saúl Vicente Vásquez** (binizaa2002@yahoo.com.mx), representative of the International Indian Treaty Council (IITC) and the Unidad de la Fuerza Indígena y Campesina (UFIC, the Organization for Indigenous and Campesina Communities), was made at the 4SSF Conference at Bangkok on 16 October 2008. It has been translated by **Brian O’Riordan** (briano@scarlet.be) of ICSF

‘freely determine their political status’ and that ‘for their own ends, they can ‘freely dispose of their natural wealth and resources’ from their lands and territories, and in ‘no case may a people be deprived of its own means of subsistence’”.

We consider that these elements may be used by fishing communities, because they are guaranteed by international legal instruments.

As we are discussing rights in this forum, and because it is in the context of human rights, it seems that the situation needs to be clarified. We are not fighting just because human rights exist; the Universal Declaration of Human Rights (UDHR) is not a legally binding instrument (although it is now part of customary law), but the two international covenants surely are. And that is what I want to tell you—that you should not only take what is established by the UDHR and, of course, by UNDRIP, but also what is established in the two international covenants, which will allow us to get the rights of our fisher people recognized.

The other step forward we have made is with regard to the recognition of the rights to our lands, our territories and our natural resources, as established in Article 32 of UNDRIP. Why lands and territories? Because lands refer not only to those areas where people grow their food, but also, under Article 13, paragraph 2 of the International Labour Organization (ILO) Convention 169, territory signifies the “entire environment”.

What is the legal basis for this? This is established by ILO Convention 169, Part II, which deals with land, where Article 13, paragraph 2 states: “...the term ‘lands’ ...shall include the concept of territories, which covers the total environment”. Furthermore, UNDRIP, under paragraph 2 of Article 32, includes “the development, utilization or exploitation of mineral, water or other resources” as part of the “lands or territories and other resources” of indigenous peoples, requiring “free and informed consent prior to the approval of any project affecting” such. That is another one of the elements that our fisher comrades could use to demand the recognition of

their rights from governments or from multilateral institutions like the Food and Agriculture Organization of the United Nations (FAO).

But you may ask us: “What have the indigenous peoples achieved with this?” Let me give you an example. While UNDRIP was still awaiting approval by the General Assembly of the UN, but had already been adopted by the Sub-committee on Human Rights of the then UN Commission on Human Rights, using these legal instruments I am talking about, the Mismito people from the Awas-Tigni community in Nicaragua demanded from the Inter-American Court on Human Rights, that their territory be recognized. The court subsequently passed a resolution in their favour for their territory to be recognized.

This is one example, but there are others from different regions of the world where indigenous peoples have made gains with these legal instruments.

What have we achieved apart from this? From these processes, not only have we gained access to UN space, but we have also opened doors to other spaces. An example is the space within FAO, where, as indigenous peoples, we have been present, and here I would like to take the opportunity to recognize

...there are example from different regions of the world where indigenous peoples have made gains with legal instruments...

the co-ordinating mechanism made available through the International Programme Committee for Food Sovereignty (IPC), which has succeeded in co-ordinating the participation of different social movements that are fighting for the human right to food and to secure this right for all sectors, not only campesinos, but also indigenous peoples and fishing communities.

Indigenous forum

What did we manage to achieve here? You should remember that we were present in Porto Alegre, Brazil, at the International Conference on

SDF and SAN



A leader of the indigenous Moken sea gypsy community at Tung Wah, Thailand

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Agrarian Reform and Rural Development, where we organized our forum on “Land, Territory and Dignity”. You will remember what happened there: The governments of the 96 countries present at that conference signed a declaration in which they committed themselves to guarantee indigenous peoples, campesinos and also fishing communities, access to lands, territories and natural resources.

We have this document in our hands, which has been signed by all those governments. It is now time to demand the fulfillment of the promises made in that document. Here we have the opportunity to request

the authorities at FAO to take up this declaration, as something to put before its Committee on Fisheries (COFI), and for its implementation to be considered. Governments are committed to this, and that is another of the elements that our fisher comrades can, and must, demand to be fulfilled.

I would like to take this opportunity to recognize one of FAO’s allies, the International Fund for Agricultural Development (IFAD), particularly its Policy Department, which has facilitated our presence here. Thanks to them, we are talking, discussing and making contributions to this meeting; without them, it would have been much more difficult for us to have made it here to share with you our experiences.

Finally, sisters and brothers, I would like to tell you, that in order to protest, we have had to go to many places. I came here to tell you that yes, we have achieved things, that it has cost us a lot of time, a lot of effort, a great deal of work, that thousands of indigenous brothers and sisters the world over have given their lives so that we have the likes of UNDRIP. But I also want to tell our fisher brothers and sisters that we will carry on this struggle together. We reiterate that it is not only fishers,

but also we—indigenous peoples, campesinos and rural workers—who are committed to securing food for all, from our seas, our rivers and our lands.

Diuxi xquídxepe láá tu, biché ca, ne bizaána ca

Many thanks, sisters and brothers. 3

For more



www2.ohchr.org/english/issues/indigenous/declaration.htm

Declaration on the Rights of Indigenous Peoples

www2.ohchr.org/english/law/cescr.htm
International Covenant on Economic, Social and Cultural Rights

legal.icsf.net/icsflegal/ControllerServlet?handler=theme&code=viewTheme&id=13
Fisheries Legal Instruments: Human Rights, Food Security, Women and Development

www.ohchr.org/EN/ProfessionalInterest/Pages/InternationalLaw.aspx
International Human Rights Law

www.ilo.org/indigenous/lang--en/index.htm
Indigenous and Tribal Peoples: International Labour Organization

www.icarrd.org/sito.html
International Conference on Agrarian Reforms and Rural Development

The Human Rights of Small-scale Fishing People

Small-scale fishing people need bold initiatives and collective action in the long march to securing their rights

In the part of the world where I come from, which is the high North, there is an increasing concern for the fate of small-scale fisheries. Will they survive under the pressures of globalization, industrialization, climate change and so forth? Are their local communities doomed?

A problem, as I see it, is this: Since small-scale fisheries and communities in the Western world and in the North are part of countries that are economically well-off and with governing systems that work relatively well, the assumption is often that there is no real reason to worry about them. Whatever happens to small-scale fishing people, there is a welfare State to guarantee that they are fine, and that their communities and cultures are safe.

To this, one may quote from a popular song lyric: "It ain't necessarily so." Also in the North, small-scale fishing people, be they indigenous or non-indigenous, are being marginalized and disadvantaged, to the extent that, in many instances, they are becoming extinct. It also happens, for many of the same reasons, that small-scale fishing people in the tropical South are becoming marginalized. Therefore, the solutions that we may perceive and propose for small-scale fishing people in the South would largely be the same as for those for the North, for instance, solutions pertaining to rights.

At the Global Conference on Small-scale Fisheries, organized by the Food and Agriculture Organization of the United Nations (FAO) and the

Department of Fisheries, Thailand, we listened to powerful arguments, looked at striking posters and saw people wearing T-shirts stating that fishing rights are also human rights. In the past, the perception of fisheries rights was typically limited to a handy management tool. Fishing rights have also been seen as something that a benevolent government hands out to fishing people.

As was noted by some keynote speakers at the Bangkok meet, the

The sad fact is, however, that 60 years after the Universal Declaration of Human Rights, we still are witnessing severe human-rights violations being committed on peoples around the world, including fisherfolk.

human-rights perspective is a very different one: It states that people have rights to begin with, and that these rights are intact regardless of what governments do or are willing to accept. This is because human rights are fundamental and universal. The sad fact is, however, that 60 years after the Universal Declaration of Human Rights, we still are witnessing severe human-rights violations being committed on peoples around the world, including fisherfolk.

Respecting human rights

I am not sure if we can say that we are moving in the right direction as far as respecting human rights is concerned. There is still a long way to go until it is generally recognized that fishing

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rights are also human rights. The recent decision of the United Nations Human Rights Commission regarding Iceland's fishing quota system testifies to this fact (see *SAMUDRA Report* No. 49, March 2008). Needless to say, fishing rights that contradict basic human rights are not acceptable, and will not be sustainable.

Notably, it is a very positive development that the UN General Assembly last year adopted the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). It is a statement of historic significance that should inspire small-scale fishing people, regardless of their ethnic background. I say this despite the fact that in the final text of the Declaration, the language pertaining to rights to marine resources and sea space was considerably watered down from what was stated in the draft that had been circulated in the years prior its final inauguration.

In the draft text of UNDRIP, paragraph 26 read: "Indigenous peoples have the right to own, develop, control and use the lands and territories, including the total environment of the lands, air, waters, coastal seas, sea-

ice, flora, fauna and other resources, which they have traditionally owned, otherwise occupied, or used." Then, in the wording that was finally approved, the direct reference to the seas was removed. The same paragraph now reads: "Indigenous peoples have the right to own, use, develop, and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired."

Given the history of oceans and marine resources as open access, and the reference to sea space as no one's property, in contrast to land and terrestrial

resources, for indigenous small-scale fisher peoples, the altered language is less reassuring. Will they have the same rights to their fishing grounds as to their forests and agricultural land? Let us hope so. However, I am not all that proud of the role that my own government, that of Norway, played in this. Neither was I very impressed by the Nordic indigenous Sami representatives. They did not stand up for the marine rights with the determination and vigour that one would have expected. But it may have been a necessary compromise in order to save the Declaration. It was after all a hard bargain, with the United States, Canada, Australia and New Zealand voting against. (Their arguments for going against the Declaration can be found at http://en.wikipedia.org/wiki/Declaration_on_the_Rights_of_Indigenous_Peoples.)

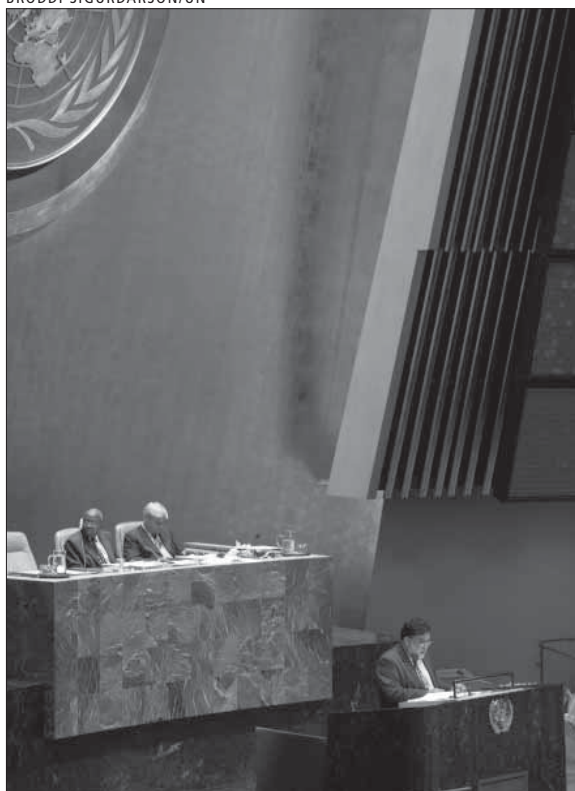
Nonetheless, the Declaration does contain important principles regarding indigenous peoples' rights to livelihoods, culture, natural resources and self-determination. In the negotiations, the letter 's' in 'peoples' proved a tough nut to crack because it determines whether we are talking about individual or collective rights. In the final text, however, the 's' stayed, to the relief of indigenous peoples around the world.

Since UNDRIP is drawn from human-rights legislation and principles that are universal, these rights have broader relevance than the Declaration might suggest. Non-indigenous populations share many of the same concerns and problems that the Declaration addresses. It would, therefore, be a great achievement if small-scale fishing people could come up with a similar declaration.

Good start

The Statement of the Civil Society Preparatory Workshop, prior to the 4SSF Conference, actually reads as one, so we may have a good start there. Even if declarations belong to what is called "soft law" and are, therefore, not as binding as, for instance, a UN Convention, they do create political space for those concerned, and put pressure on governments to act upon them.

BRODDI SIGURDARSON/UN



Les Malezer, Chairperson, Global Indigenous Peoples Caucus to the United Nations, addressing the UN General Assembly

BRODDI SIGURDARSON/UN



Indigenous peoples gathered at the United Nations General Assembly hall celebrating the adoption of the UN Declaration on Rights of Indigenous Peoples, September 2007

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If such a declaration is what the world of small-scale fishing people should decide to go for, a lesson from the process that led to UNDRIP is that one should be prepared for a long haul. That declaration took a long time to develop. It did not emerge by itself or because governments championed it. Rather, it came as a result of decades of struggle by the indigenous movement.

Small-scale fishing people deserve bold initiatives that work, and they need them fast. Their communities and cultures are not as resilient as we tend to believe, particularly under the new threats that they are now facing. Rather, they are vulnerable, and are not as easily restored once they are broken. A culture lost is forever lost, as with biodiversity. A declaration may be an instrument of committing governments to secure the 'rights to life' of small-scale fishing people, as many called for at the Bangkok conference.

Support from outside civil society, as from FAO, for instance, is essential because powerful interests would be working against such a declaration.

Academics would also be important allies, as they were with UNDRIP. The knowledge that academic research creates is vital in describing situations, defining problems, highlighting issues and bringing them to the table. Small-scale fishing people need all the friends they can muster to work collectively on all fronts in the long march to securing their rights.

3

For more



en.wikipedia.org/wiki/Declaration_on_the_Rights_of_Indigenous_Peoples
Wikipedia

www2.ohchr.org/english/issues/indigenous/
OHCHR

Food for Thought

In the follow-up to the 4SSF Conference, fishworker organizations must capitalize on the positive experiences of social movements and civil society organizations (CSOs) engaged in the struggle for food sovereignty

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The Global Conference on Small-scale Fisheries, “Securing Sustainable Small-scale Fisheries: Bringing Together Responsible Fisheries and Social Development” (4SSF), held in Bangkok, Thailand, in October 2008, constituted the first opportunity for the Food and Agriculture Organization of the United Nations (FAO) to listen to, and take into account, the voices of many fisherfolk representatives from all over the world, as well as of the organizations working with them, and to understand their claims and demands related to the achievement of a true social development for the fisheries constituency.

One of the emerging conclusions within the world of small-scale farmers is that there is no opposition between the farmers of the North and the South.

At the same time, fisherfolk organizations took the Bangkok opportunity to collectively discuss these issues. The Constituent Assembly of the World Forum of Fish Harvesters and Fish Workers, held in Loctudy, France, in October 2000, was the last opportunity for many fisherfolk organizations to meet and exchange views. The international context has changed radically since then. As evident during informal conversations in the corridors of the Bangkok conference, a longer process is needed for proper discussion about the different social and economic conditions in each fishery context. Discussions among fisherfolk also revealed differences of perspective

about what small-scale fisheries means in varying geographical contexts.

A similar debate took place some years ago on how to better define what was understood by ‘family farm/small-scale/peasant agriculture’ (agricultura campesina in Spanish and agriculture paysanne in French).

Comparing different socioeconomic contexts, a poor small farmer can be either a wheat producer in Manitoba, Canada, with 300 ha of farmland, or a rice farmer in the Red River Valley, Vietnam, cultivating just 5,000 sq m in order to survive; both will have to employ their children and wives in the farm; none will be able to send their children to school/university; and none will have great control over their future.

The debts incurred by the Vietnamese farmer to buy a carabao buffalo will be equal to the debt the small Canadian farmer will have to incur to buy a tractor.

One of the emerging conclusions within the world of small-scale farmers is that there is no opposition between the farmers of the North and the South; rather, there does exist an opposition between an industrial model of agriculture, which is dominant in the North (but is also present in the South, as, for example, with the case of a Malaysian financier who bought 5,000 ha of land to cultivate rice) and the family farm/small-scale agricultural model of production, which was once the mainstay of lively rural communities, both in the North and the South.

In great crisis

These days, the family farm/small-scale agricultural model of production

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is in great crisis, principally due to a lack of fair agricultural policies or, even more commonly, because agriculture and rural development are absolutely not priorities for government policy.

The other fact we have realized over these years of work is that none of the food producer constituencies will be able to confront their problems on their own. They represent the subaltern part of society and, therefore, they need to link up with others in the same situation to generate critical mass. The issue of food and agriculture cannot be separated into compartments: agriculture, fisheries, forests, natural resources management, and local and global markets are all interconnected. Therefore, whenever we think about an action or a platform for struggle, we must take into account this interrelation and view the different sectors

as a whole. This is probably one of the main reasons why the International Planning Committee for Food Sovereignty (IPC) was born in 1996.

An important effort must be made to capitalize on the experience of the positive processes in which social movements and civil society organizations (CSOs) have been engaged in for years in the struggle for food sovereignty, in particular, the Voluntary Guidelines for the Implementation of the Right to Adequate Food and the International Conference on Agrarian Reform and Rural Development (ICARRD).

The process that led to the adoption of the Voluntary Guidelines to Support the Progressive Realization for the Right to Adequate Food is probably among the most successful in terms of the effective participation of CSOs in the definition of an international instrument that

MASSIMO VOLLARO

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Farmers, indigenous peoples and workers' leaders at a march during the Forum for Food Sovereignty, held in Rome in June 2002. Food producer constituencies will not be able to confront their problems on their own

could lead to food sovereignty. In fact, the civil society Right to Food Working Group (RTF WG) had an important role in facilitating civil society intervention in the FAO Inter-governmental Working Group, set up by the World Food Summit: five years later (WFS: fyl), which elaborated and negotiated the Voluntary Guidelines text that was finally approved by the 127th Session of the FAO Council in November 2004. The RTF WG was initially set up in 2002 by FoodFirst Information and Action Network (FIAN) International and several other CSOs from different continents. In 2003, it was formally defined as the RTF focal point of the IPC (IPC WG RTF). The RTF WG had also an important role in the negotiation of the first standard-setting instrument adopted by an intergovernmental group, which has already been adopted as an important instrument for the monitoring work of the United Nations Committee on Economic, Social and Cultural Rights (CESR).

From the point of view of CSOs, ICARRD represents a major contribution in form and substance to the debates and actions that need to be taken around agrarian reform and rural-development issues in the coming years.

While considering social development in small-scale fisheries from a human-rights perspective, it is essential that the human rights of fisher peoples are legally recognized, enforced and effectively implemented at the national level. These rights must include legally mandated rights to access fishery resources, to land, to food and housing, to gender equality and decent working conditions. For small-scale fisheries, social development should include the principle that fisher people also need non-discriminatory and sound economic policies that will permit fishers, particularly women, to earn a fair return from their labour, capital and management, and encourage conservation and sustainable management of natural resources.

Fisheries policies should strengthen local and national markets, and need to strike a balance between national policy spaces and international disciplines and commitments. Finally, also to be considered is the development of a human-rights-based monitoring of the social development of fisher peoples. Such monitoring aims at controlling governments' performance in the light of the contracted obligations in human-rights law. It goes beyond traditional monitoring exercises done by States through the statistical units within different ministries. The monitoring efforts *per se* belong to human-rights obligations. The Voluntary Guidelines on the Implementation of the Right to Food dedicate several parts to monitoring mechanisms as key components of a national strategy for the realization of the right to food, and provide practical guidance on how to set up, and develop, such monitoring instruments. The autonomous monitoring capacity of fisher peoples and their organizations should be strengthened so that we can make more effective use of recourse mechanisms and other legal provisions instrumental to defending our rights.

It would be instructive to recall the process towards ICARRD. Social movements and CSOs gathered around the food sovereignty approach always include fisheries whenever issues related to agrarian reform and access to natural resources are being considered. The Forum for Food Sovereignty, held in Rome in June 2002, stated, "Food sovereignty requires...access to land, water, forests, fishing areas and other productive resources through genuine redistribution, not by market forces and World Bank-sponsored, market-assisted land reforms" and "to achieve food sovereignty...we will struggle to realize genuine agrarian and fisheries reform, rangeland and forestry reform, and achieve comprehensive and integral redistribution of productive resources in favour of the poor and the landless".

International agenda

For its part, FAO, as a further step in putting land and rural-development issues as a top priority

on the international agenda, organized ICARRD, which was hosted by the government of Brazil in 2006. Paragraph 14 of the ICARRD final declaration, undersigned by 92 governments, states: "We recognize that policies and practices for broadening and securing sustainable and equitable access to, and control over, land and related resources and the provision of rural services should be examined and revised in a manner that fully respects the rights and aspirations of rural people, women and vulnerable groups, including forest, fishery, indigenous and traditional rural communities, enabling them to protect their rights, in accordance with national legal frameworks."

From the point of view of CSOs, ICARRD represents a major contribution in form and substance to the debates and actions that need to be taken around agrarian reform and rural-development issues in the coming years. ICARRD has been unique in allowing rural social movements (of farmers, fisherfolk, pastoralists, indigenous peoples, landless and agricultural workers and producers) and other CSOs to participate in the process, on equal footing with their governments, and in a manner that is respectful of the autonomy of CSOs. Rural social movements and other CSOs have been referring to ICARRD as a good practice to organize civil society participation in international conferences. The challenge now is to bring together civil society efforts with supportive initiatives that sympathetic governments and FAO and IFAD might further launch to fulfill ICARRD commitments. Resistance to implement ICARRD is still very strong, even more in the current context of aggressive agrofuel expansion.

Recently, FAO's Land Tenure Unit approached the IPC to start discussing the process of adopting voluntary guidelines on land and natural-resources tenure. Given the fact that secure rights of access for the poor and vulnerable are increasingly affected by climate change, violent conflicts and natural disasters, population growth and urbanization, and demands for new energy sources such as bio-energy, FAO,



A scene from San Antonio fish market, Chile. Fisheries policies should help fishers, especially women, earn a fair return from their labour

IPC and other interested organizations feel that there is a need for such guidelines. Yet more work is required to define their exact scope and framework. Following the positive examples of the Voluntary Guidelines on the Right to Food and the ICARRD process in terms of effective participation of social movements and other CSOs, FAO agreed to apply a similar methodology, which is already reflected in the tentative plan of work. The IPC greatly welcomes this, and will engage in the process, with the participation of fisher organizations and farmers and indigenous peoples.

The IPC is of the opinion that this initiative could become highly relevant in the current context of the food crisis. In fact, the issue of access to, and control over, land, sea and natural resources by marginalized rural groups has been neglected in the analysis of the current food crisis and in the policy proposals made by the UN High-level Task Force on the Global Food Crises. On the other hand, the IPC considers that it is absolutely crucial for FAO to apply a human-rights-based approach—for example, using the instruments like the Voluntary Guidelines for the Implementation of the Right to Adequate Food—not only in its work on access to land and natural resources for food production but also as part of its strategic framework for larger action.



For more



www.foodsovereignty.org/new/
**International NGO/CSO Planning
 Committee for Food Sovereignty
 - IPC**

www.icarrd.org/sito.html
**International Conference on
 Agrarian Reform and Rural
 Development**

www.fao.org/righttofood/
Right to Food Unit, FAO

Building Resilience or Transformation?

In the wake of discussions at the Bangkok meets on global small-scale fisheries, it is now time to map out the trajectory of a human-rights approach to small-scale fisheries

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Inside the exhibition centre near the entrance to the venue of the Global Conference on Small-scale Fisheries (4SSF) held in Bangkok in October 2008, was a poster of an old, extremely thin woman, sitting alone on a wooden craft with a net in her hands. The poster's message was aimed at increasing the productivity and resilience of small-scale fisheries.

The juxtaposition of the image and the message felt strangely discordant to me, having just attended the Civil

to the fishers with whom I work, the analytical usefulness of the term in describing ecological systems and their processes. Added to this was the need to transform the systems of political and economic privilege we experience, in which 'risks' and 'vulnerabilities' are invariably 'violations'.

The increasing use of the term 'resilience' in fisheries management literature reflects the growing application of a socio-ecological approach to natural resource management that has permeated a very wide range of both natural and social science disciplines, as is evident from the extensive literature on the subject. The vast proportion of this work attempts to further extend and refine the application of this 'resilience' approach in various contexts. The concept has been most often applied to disaster management, and a plethora of publications have appeared in the past two years with 'resilience' in their titles, aimed at building communities' resilience to natural disasters.

From a fisheries management perspective, useful interventions have been made to extend understanding of the impacts of human agency on system interactions, and the importance of examining systemic change in terms of multiple scales, as well as the need to locate any inquiry within the context of 'change for what and for whom?'.

Long-standing critique

While there is a very extensive and long-standing critique of systems theory in general, there is surprisingly little

The word 'resilience' was used by several speakers at the 4SSF conference, from the opening evening to the closing session.

Society Preparatory Workshop, prior to the official 4SSF conference, where I had listened to stories from fishworkers and their supporters describing the current climate in which small-scale fishers operate globally, and the daily violations of their dignity and rights, particularly those of women.

The word 'resilience' was used by several speakers at the 4SSF conference, from the opening evening to the closing session. Small-scale fishers were urged to become resilient in the face of the global financial crisis, even as their past resilience in adapting to difficult conditions was praised. My own discomfort with the term comes from the difficulty I have had as a researcher in South Africa in trying to find a methodology that translates,

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debate within fisheries management literature on whether or not this socio-ecological approach adequately accommodates the multiple expressions of human agency and power that shape fisheries systems. In the current context of small-scale fisheries, does the application of this approach capture sufficiently the dominance of the neoliberal market system, and stimulate opportunities for ‘transformative circumstances’? Does it accommodate the most distinguishing feature of our human systems in the context of the discussions at the Bangkok meets—our moral and ethical capacities to determine the boundaries of ‘responsible fisheries’ and the power relations within which our choices are embedded?

The increased use of the term ‘resilience’ and the paradigm it connotes is perhaps most strongly reflected in the July 2008 report on world resources, entitled “Roots of Resilience: Growing the Wealth of the Poor”, a joint project of the United Nations Development Programme (UNDP), the United Nations Environment Programme (UNEP), the World Bank and the World Resources Institute (WRI).

The report (hereafter called the WRI report) states its thesis as “successfully scaling up environmental income for the poor”, which requires three elements: (a) ownership over the natural resources that they use; (b) capacity for development, which is defined as “the capacity of local communities to manage ecosystems competently, carry out ecosystem-based enterprises, and distribute the income from these enterprises fairly”; and (c) connection, which is described as “establishing adaptive networks that connect and nurture nature-based enterprises, giving them the ability to adapt, learn, link to markets, and mature into businesses that can sustain themselves and enter the economic mainstream”.

The WRI report locates ‘resilience’ at the heart of this approach: “They also acquire greater resilience. It is the new capacities that community members gain—how to build functional and inclusive institutions, how to undertake community-based projects, and how to conduct a successful business—that

give rise to greater social and economic resilience. It is the insight that ecosystems are valuable assets that can be owned and managed for sustained benefits that builds the foundation of ecological resilience. Together, these three dimensions of resilience support the kind of rural development whose benefits persist in the face of challenge.”

...ecosystems are valuable assets that can be owned and managed for sustained benefits that builds the foundation of ecological resilience.

Resilience is defined as “the capacity of a system to tolerate shocks or disturbances and recover”. The WRI report argues strongly that rural communities are facing increasing challenges: it posits climate change as one of the most serious challenges, while also citing population growth, “the disruption of traditional systems of land tenure, depressed and volatile prices for agricultural commodities, and armed conflict” as “serious sources of vulnerability” for these communities, and that “the ability to adapt to (them) would be crucial to the survival of rural communities”.

At the Civil Society Preparatory Workshop at Bangkok as well as

SIFFS



A scene from the fishing village of Kasaba, Kerala, India.
There is need to adopt a human-rights approach to small-scale fisheries

at the official 4SSF Conference, the need to adopt a human-rights approach to small-scale fisheries predominated discussions. In the preparatory processes facilitated by the International Collective in Support of Fishworkers (ICSF), the Sustainable Development Foundation (SDF), the International Planning Committee for Food Sovereignty (IPC), Federation of Southern Fisherfolk (FSF) and the World Forum of Fisher Peoples (WFFP), this issue was also strongly articulated. The keynote papers by Chandrika Sharma and Edward Allison

In South Africa, their own 'resilience' has been the biggest obstacle for artisanal and small-scale fishers...

communities to use natural resources more "productively and sustainably". The aim is ultimately "to enter the economic mainstream". Building ecological, social and economic resilience is a means to achieving this.

The WRI report demonstrates most visibly how concepts and terminology are embedded in the social and economic relations within which they are used. "Community-based natural resource management (CBNRM)" with "tenure security rights", "capacities" and "networks" are the tools that will be used. Participation and empowerment are instrumental, motivated primarily by expedience; they facilitate processes, reduce conflicts, and thereby promote sustainability and fast-forward the process of "scaling up local enterprises". The benefits are described in monetary terms: "currency"; "resilience dividends"; "incentives"; and (to) "overcome current deficits". The report notes that "incentive is born of self-interest" and hence governments must create the incentives for enterprise development. Sustainability makes good monetary sense, it would appear.

The WRI report never questions the legitimacy of the model of the global economy, industrial expansion or the system of capitalism upon which these are based. The need to adapt and become resilient to the impacts of climate change is explored with no reference to the 'drivers' of climate change. Reference is made only to the broader global community through the fact that political and social instability will arise if the poor cannot adapt to the challenges of poverty and climate change, which is "of increasing concern to the international community".

Useful examples

The WRI report highlights best practices in CBNRM in building "capacities" and "networks", and focuses on useful examples of success, but fleeting attention is paid to real issues of conflict or difference. The report is particularly patronizing in its assumption that until now, rural communities have not had local-level customary practices that have managed resources sustainably for generations, or social networks that have served the functions of the social

captured these sentiments strongly. Sharma stressed that the human-rights approach was not a question of choice, but was mandatory: It is not "a means to an end but an end in itself". The Statements adopted at all the preparatory processes, including the Civil Society Statement presented at Bangkok, emphasize the centrality of a human-rights approach to fisheries and coastal resource management.

How is it possible then that there is such disparity between these processes and the WRI report, which represents the current collective thinking of the key international institutions dealing with the protection, promotion and financing of natural resource management? The WRI report does not mention 'human rights' even once in its entire 200 pages. What it does do is explain very clearly the paradigm behind the poster of the vulnerable, elderly small-scale fisherwoman displayed at the Bangkok conference. It does so by developing a very strong, apparently seamless, argument for an economic-efficiency approach to the access to, and use and governance of, natural resources, including many examples from small-scale fisheries around the world. The WRI report is based on the premise that poverty must be addressed through enabling rural

capital that is now envisaged. Instead, it is suggested that it will be “the new capacities that they gain that will give rise to greater resilience”.

The WRI report notes briefly—in a small boxed insert—that equity is an important consideration, but fails to draw the logical conclusions. There is no suggestion that the fundamentally unequal and exploitative relations that underpin the current global economy should be changed or questioned. Even the notion of an ethic of care, and the need for a nurturing approach, most strongly voiced by feminists from developing countries, has been appropriated and is asserted as the need to develop a “nurturing natural enterprise”.

How is it possible that the reality that I have heard described by fishers is so different? Consider these examples: tourism initiatives blocking fishers’ access to traditional landing sites in Tanzania; ecotourism ‘opportunities’ in South Africa, where the traditional communities did not know that they owned 60 per cent of the tourist lodges; marine protected areas (MPAs) in Indonesia that have excluded fishers dependent on resources such as water for their basic survival...

In South Africa, their own ‘resilience’ has been the biggest obstacle for artisanal and small-scale fishers, evidenced by the fact that nearly 15 years after the death of apartheid and the introduction of democracy, in a country with one of the most progressive constitutions in the world, small-scale fishers still do not have access to their traditional fishing grounds, and are being squeezed out by the industrial fishing sector. Women have indeed been ‘resilient’: they have been like shock absorbers in their communities, adapting to the vagaries of the apartheid capital that set up the industrial fishing enterprises in their towns, drew them as seasonal labour into the lobster export processing industry and then, more recently, spat them out when consumer demand in the North shifted towards live lobsters. The women have been resilient in the face of the individual quota system, which failed to allocate fishing rights to their male partners, dividing their communities, destroying their social



South African fishers, along with allied workers, marching at Cape Town to fight for their rights to the sea

capital, and introducing privatized, individual notions of ‘rights’.

There has lately been much talk of the “death of capitalism” but, as Lenin predicted, capitalism has proved to be very resilient, in particular, global capital. It has a way of reinventing and mutating into increasingly insidious forms, and finding new markets and labour supplies. Is this the new approach to the rural poor who are dependent on natural resources? The WRI report appears to be a ‘pro-poor’ approach to building the wealth of the poor so that they can fund poverty alleviation, and cope with the fallout of industrial capitalism. Yes, the WRI

MASIFUNDISE



A mussel harvester from Eastern Cape, South Africa.
The world over, fishers are seeking a new ethic that prizes human dignity

need to lead a process of mapping out this approach, being aware of the danger that it has already been pre-empted by opportunistic global governance, financial and technical aid institutions that are already using the language of a human-rights approach in their interventions.

As we have heard from many of the speakers at both the Civil Society Preparatory Workshop and the 4SSF Conference in Bangkok, a human-rights approach will, of necessity, require a more transdisciplinary approach that will link small-scale fisheries management and implementation with a wide range of other sectors and institutions. New forms of alliances among fishworkers, their supporters and activists in other sectors will be necessary, as will a fundamentally altered approach from the State and other fisheries management institutions towards their 'stakeholders'. We need to identify the mechanisms that must be put in place to expand fisheries management mandates to the interstices of this integrated approach.

Most critically, it appears to me that, as individual fishworkers, activists, researchers, academics or fisheries managers, we need to find ways to strengthen this 'reflexive' capacity of human systems that the resilience literature highlights, and individually and collectively create the pathways towards a radically transformed system and a new set of socio-ecological relations for using, producing, consuming and sustaining our fisheries resources.

3

For more



www.resalliance.org/
Resilience Alliance

pdf.wri.org/world_resources_2008_roots_of_resilience.pdf

World Resources 2008: Roots of Resilience - Growing the Wealth of the Poor

<http://www.worldfishcenter.org/v2/ourwork-ssf.html>

Productive and resilient small-scale fisheries: WorldFish Centre

report is correct: small-scale fishers want ownership; they want to build social capital and practise CBNRM; they want to reduce poverty, and scale up; and they want to engage in the broader markets. But this will not happen on the scale envisaged if the systemic obstacles are not engaged with, and challenged. And, as we heard repeatedly at the Civil Society Preparatory Workshop at Bangkok, fishers want to engage with a transformed market, one which is based on a different ethic, on a system that prioritizes the human dignity and collective responsibility of all to secure the well-being of the community.

The challenge for us, post-Bangkok, appears to be the need to explore what this trajectory of a human-rights approach would look like from the perspective of implementation and action. We know that much of the language of human rights is already present in a wide range of international and regional instruments, including fisheries instruments and commitments. Many of the methodologies and tools that we are now using to assess our fisheries systems contain the potential to identify the systemic challenges and threats to the human-rights approach. But we now need to take this a step further and develop an integrated approach to strategies for intervention that we must activate to ensure that these commitments are realized. Fishworkers and fishing and coastal communities

We Must Grab Our Rights!

Despite several shortcomings, the recent Civil Society Preparatory Workshop at Bangkok, prior to the Global Conference on Small-scale Fisheries, strove for a common agenda

From the very beginning, the agenda and processes leading to both the Civil Society Preparatory Workshop at Bangkok and the Global Conference on Small-scale Fisheries (4SSF), organized by the Food and Agriculture Organization of the United Nations (FAO) and the Department of Fisheries, Thailand, in October 2008, were clear. A democratic process—articulated in several regional meetings over the last few years—had established the credo that fishing communities and artisanal fishers are united over the issue of human rights, and that the health and well-being of communities are directly linked to the ecosystems on which they depend.

This 'constitutional' base formed the reference point for the discussions at Bangkok on securing access rights, post-harvest benefits and human rights. That this was achieved is no small matter. Gathering hundreds of people from all over the world for a meeting requires enormous human, financial and technical resources. But success is never guaranteed, and seemingly minor issues may throw a spanner in the works. In the event, congratulations are due to the organizers of the Bangkok meet for having avoided these pitfalls.

To understand what really happened at Bangkok, one must return to the 1980s, when several groups got together to form an embryonic network that led to the alternative International Conference of Fishworkers and their Supporters, held in 1984, in parallel to the official fisheries conference organized by FAO. That Rome meet, in turn, led to the formation of the International Collective in Support of Fishworkers (ICSF).

Then, in 1997, artisanal fisher representatives gathered in New Delhi to moot the formation of a world body for fishworkers. In October 2000, the French town of Loctudy had the honour of hosting the Constituent Assembly of the World Forum of Fish Harvesters and Fishworkers (WFF). However, despite eight days of intense debate, a consensus, though greatly anticipated, could not be reached, and two forums emerged from Loctudy: the World Forum of Fisher Peoples (WFFP) and WFF.

While it would be pointless to go into the specifics of the Loctudy breakup,

A democratic process—articulated in several regional meetings over the last few years—had established the credo that fishing communities and artisanal fishers are united over the issue of human rights...

we do need to understand it in order to avoid future mishaps, and strive for convergence. Those responsible for the future—fishing communities, non-governmental organizations (NGOs) and governmental and inter-governmental organizations—must understand the conditions necessary for change, and the need for constancy of effort and commitment.

Separate paths

Since the Loctudy split, WFF and WFFP have followed quite different and separate paths. There have been few contacts between the two, apart from those mediated by NGOs during different events. This dichotomy was reflected at Bangkok too. While WFFP played a key role during the Civil

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Society Preparatory Workshop, along with the Sustainable Development Fund (SDF), the International Planning Committee for Food Sovereignty (IPC), Federation of Southern Fisherfolk (FSF) and ICSF, representatives of WFF were conspicuous by their absence, even though they had been invited to the Bangkok meet.

Little wonder, then, that European fishers—especially French fishers in Breton, with whom I am familiar—feel that they have been “sold out”.

In the days leading to the Civil Society Preparatory Workshop, WFF played its role as an organization representing fishworkers. It also contributed strongly to the Civil Society Statement that was the principal outcome of the workshop, and which served as the keystone for the rest of the Bangkok meet. In contrast, for reasons unknown, WFF did not participate in the collective preparations for the workshop.

Artisanal fishing representatives from Europe were also noticeable by their absence at Bangkok. Mediterranean Prud'hommies were

represented, as were regional committees from Guadeloupe and Martinique, but the only ‘official’ representative was from the South Western Regional Advisory Committee (SWRAC) of the European Union (EU), Xoan Alvarez Lopez, Secretary of the Galician Cofradías and Chair, the Working Group on Traditional Fisheries of SWRAC.

No EU Member State was represented at Bangkok. In light of this remarkable absence, it is doubtful whether the FAO’s Committee on Fisheries (COFI) will garner enough support to consider favourably some of the proposals that have emerged from the Bangkok Civil Society Preparatory Workshop.

The situation in Europe, of course, differs greatly from that in developing countries. Europe has no shortage of administrative structures; perhaps there are too many. Many of them, like fisheries committees or producer organizations, tend to mix artisanal and industrial fisheries. The interests of the small-scale fishing sector are often subjugated by those with the means and the time to spare for activities that do not involve going out to sea. Such a situation is not conducive to the creation of a radical alternative social movement, unlike in the South, where a powerful sense of inequity can create a

dramatic polarization of the fisheries sector into artisanal and industrial factions.

The World Bank representative told the Bangkok meet, loud and clear, that artisanal fishers from developing countries must export even more to earn foreign exchange. He put forward two, seemingly complementary, reasons for this. First, industrial fishing, since it is proving to be unsustainable, must be progressively replaced by export-driven artisanal fishing. Second, in certain parts of the world, as in Europe, fishing, as an occupation, is disappearing.

In the light of this explicit call from the World Bank representative, the policies

PATRICIO IGOR MELILLANCA/ECOCEANOS



Cosme Caracciolo and Zoila Bustamante of CONAPACH, Chile, at the 4SSF Conference in Bangkok: “It’s now time for us to take it forward!”

of the World Trade Organization (WTO) and the EU appear perfectly coherent. Trade flows in fisheries are important. Fish imports represent 60 per cent of Europe's total consumption. In France the situation is even more dramatic, with imports accounting for 85 per cent of all seafood consumed. Trade to Europe involves a triple set of accords: of the importing countries; of the international trade regime as established by the WTO and other multilateral bodies; and of the export-oriented fishing sector in developing countries.

Despite the paramount role of trade in fisheries, at Bangkok, however, representatives of civil society, particularly members of WFFP and WFF, remained silent on the issue. It is easy to understand that silence: Fishers from the South are keen to export to remunerative markets, even if it should ultimately prove detrimental to their food sovereignty.

Undoubtedly, traditional artisanal fishers from the South should be supported in their efforts to sell their catches in the markets of the North. But two important issues must not be overlooked. First, it should be realized that WTO policies are geared to the interests of the most powerful. Second, artisanal fishers themselves, particularly in Europe, will not survive the coming realignment of trade-induced policies. The fact that European artisanal fishers are considered disposable in the adjustment of trade flows of seafood products does not seem to interest anyone, apart from the fishers themselves. They will have to, therefore, rely on their own resources and capacities to organize themselves around issues, given that the interests behind the seafood export drive are powerful. Little wonder, then, that European fishers—especially French fishers in Brittany with whom I am directly concerned—feel that they have been “sold out”.

Issue of trawling

At the Civil Society Preparatory Workshop at Bangkok, the issue of trawling was raised several times, often with emotion. All the same,



Trade in fish and fish products is of paramount importance for fishers of the South. A scene from a Bangkok fish market

surprisingly enough, it was treated with a certain reserve, with responsibility and in a nuanced way. The rationale for a trawl ban is easy to fathom. In many countries, large trawlers—national, foreign or pirate—fish up to within a few metres of the coast. Given the lack of efficient monitoring, control and surveillance systems, the temptation is strong for small-scale fishers to organize themselves around the demand for a total ban on trawling.

At Bangkok, though, the debate was more nuanced. The Civil Society Statement called for “illegal fishing

No EU Member State was represented at Bangkok.

and all destructive fishing gear and practices” to be prohibited. The implication is that trawling is not always destructive; it may be selective, and can be regulated. Such a view of trawling is more acceptable, particularly to fishers from, say, the Bay of Biscay in France, whose fisheries regulation and multi-gear selectivity were greatly appreciated at Bangkok.

PATRICIO IGOR MELILLANCA/ECOCEANOS



Marie Ademar of Martinique, a member of WFFP, addressing the Civil Society Preparatory Workshop at Bangkok

The absence of debate on energy at Bangkok also needs to be highlighted. The cost of fuel and transportation is a huge problem for fishers all over the world, in both domestic and export markets. Thus it was surprising that energy did not figure in the Bangkok deliberations. There could be two reasons for that. First, the Civil Society Preparatory Workshop agenda was perhaps adhered to with too much vigour, leaving little space for other issues to be taken up. Second, there is a strong feeling among artisanal fishers that they can do nothing about the issue of fuel. Whether the price of a barrel of oil goes up or comes down, they must somehow cope. Nonetheless, this issue cannot be wished away; it will doubtless return to the top of the fishers' agenda.

And then there is the issue of women in fisheries. Since the 1990s, delegations of fishworker representatives have aspired to be composed of men and women in equal numbers. At Bangkok, however, women made up only a quarter of the participants. It may be easy to justify that skewed representation, but it surely renders superficial all talk of "women having the right to fully participate in all aspects of artisanal fisheries".

At Bangkok, most of the time, the male participants seemed to be listening with only one ear to the women speaking about the need to

assert their rights, which the men, in their hearts, seemed to have no intention of sharing. That is a pity since it would be so much easier to guarantee access rights, and economic and social rights if the issue of women's rights is taken more seriously. In this context, a very practical question was posed at Bangkok: "How come a man is the sole owner of an individual transferable quota when his wife may be the owner of 50 per cent of his fishing vessel and fishing company?"

Even though several men feel that these are questions that should never be asked, the reality of the prevailing patriarchy, both in the North and the South, has to be recognized. Men will give up nothing unless they are obliged to do so. Hence, the clamour by one participant at Bangkok: "We must grab our rights!"

In a sense we, as 'civil society', needed to make such a strong, coherent and collective call, so forceful that agencies like FAO can only react positively in favour of fishworkers and fishing communities all over the world. In advocating such a common agenda, we have had to act out a dramatic play, as it were, in which all the scenes are well known and thoroughly rehearsed, but where there is always the danger that, in a moment of folly, one of the principal actors could stumble on her lines.

To turn the tide at a global level requires the application of enormous energy, time, devotion, funds, communication, information technology, networking, open-mindedness and exhaustive groundwork. Given the vastness and complexities of the world of fisheries, and the varied options available, a whole lifetime's work may not be enough to achieve that goal. 3

For more



<http://torrpenn.prod.serv02.free.fr/spip.php?article27>

Comite Local Des Peches Le Guilvinec

Whose Waters Are These Anyway?

Transborder fishing by small-scale fishermen in the waters of other nations is a complex issue that calls for an equitable and humanitarian approach

At the recent Global Conference on Small-scale Fisheries, titled “Securing Sustainability in Small-scale Fisheries” (4SSF), organized by the Food and Agriculture Organization of the United Nations (FAO) and the Department of Fisheries, Thailand, and held in Bangkok in October 2008, an important talking point was the issue of transborder fishing by small-scale fishermen. For many participants at the plenary session group discussion reporting on the topic, it was revealing to learn that transborder fishing by small-scale fishermen is so widespread and complex a phenomenon that neither can it be ignored or just lumped together with the broader category of illegal, unreported and unregulated fishing, nor seen as merely an issue of enforcement of fisheries or maritime zones’ legislation.

There is enough anecdotal evidence to suggest that transborder fishing is an issue in different parts of the world. It seems to be most intractable on the India-Pakistan border. The maritime border between the provinces of Gujarat in India and Sindh in Pakistan remains unsettled, and fishermen on both sides are often caught for fishing in each other’s waters. They are then invariably imprisoned, and there are instances of fishermen having spent up to a decade in prison for being caught in foreign territorial waters.

The India-Sri Lanka border, especially in the narrow Palk Bay, is another hotspot. Historically, the fishermen on both sides of the Palk Bay

are ethnically linked and have freely fished all over the Bay. The Indo-Sri Lankan maritime border agreement of 1974 created a boundary, which was largely ignored by the fishermen on both sides. However, with the start of the civil war in Sri Lanka in 1983, the borders became a matter of concern for the governments of both India and Sri Lanka. Since then, there have been hundreds of incidents of arrests and detention of Indian fishermen by Sri

There is enough anecdotal evidence to suggest that transborder fishing is an issue in different parts of the world.

Lankan authorities. At times, fishermen caught in the crossfire have been killed. Sri Lankan fishermen fishing for tuna on multi-day vessels within the Indian exclusive economic zone (EEZ) also face the possibility of arrest and detention by Indian authorities.

In the case of Bangladeshi fishermen, their crossings into India’s territorial waters seem to be motivated more by the higher prices obtained in Indian markets than by the desire to poach on fish resources.

Turning to Southeast Asia—an intricate mosaic of countries with many borders within easy reach of small-scale fishermen—we find it is common for small-scale fishermen in the region to engage in transborder fishing. However, most governments of Southeast Asian

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ANTONY BENCHILAS/SIFFS



Sri Lankan boats seized in India. Boats confiscated for transborder fishing are sometimes returned after months, often beyond salvage

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countries seem to prefer to turn a blind eye to the presence of small-scale artisanal boats in national waters.

The artisanal fishing boats of Indonesia and Papua New Guinea, however, have a serious problem with Australia, while the small motorized boats of Aceh province of Indonesia regularly get into trouble in Indian waters. The Aceh coast is just a three-hour distance from India's Nicobar Islands, and fishermen from Aceh have been fishing in these waters long before India declared its EEZ.

As fish shoals move across borders, the natural tendency of fishermen who depend on these shoals and have specialized in catching them, is to follow them without regard for national boundaries.

The Eritrea-Yemen border on the Red Sea also witnesses transboundary crossings by fishermen. Yemeni fishermen have long followed the fish shoals, and camped in Eritrea for some time of the year as part of their fishing voyages. The civil war and the formation of the modern Eritrean State have, however, created conditions whereby Yemeni fishermen are no longer welcome and are often arrested and treated harshly. Yemen has since closed its border

to Eritrean fishermen in retaliation for the harassment of their fishermen.

West Africa is another area where fishermen chasing rich shoals of pelagic fish have traditionally crossed borders regularly and routinely. Gabon, which does not have an indigenous fishing tradition, used to be hospitable to fishermen from neighbouring Ghana, but now the Ghanaian fishers' camps are being burnt and they are chased away from Gabon's shores. Mauritania, which has fishing agreements with the European Union, can be very harsh with fishing vessels from neighbouring countries caught in its waters.

These examples give us some insight into why small-scale fishermen cross borders to fish in the waters of neighbouring States. Where borders are close by and small-scale fishing boats are not equipped with global positioning system (GPS) or other navigation equipment, it is but natural that the borders are crossed accidentally. It is also common for engines to fail and boats to drift into neighbouring waters. However, most coast guard vessels can distinguish between such accidental crossings and deliberate illegal fishing.

Much of today's transborder fishing continue practices set well before the 1982 United Nations Convention on the Law of the Sea (UNCLOS). As fish shoals move across borders, the natural tendency of fishermen who depend on these shoals and have specialized in catching them, is to follow them without regard for national boundaries. Such movement is likely to be seasonal and even predictable.

The introduction of powerful outboard motors for fishing vessels has dramatically increased the range of small boats. Small boats can nowadays be found covering considerable distances. The availability of hand-held GPS units and cheap communication devices like mobile phones also encourages such movement.

Multi-day fishing

The coming of 'multi-day' fishing boats has revolutionized fishing in many countries. Depending on a combination of modern technologies and the innate

skills of the traditional fishermen, these boats are difficult to contain within the marine spaces of countries. The enhanced capacity of the artisanal sector, as a result of these changes, is an important cause for transborder fishing.

In many countries, poor fisheries management—the failure to protect small-scale fisheries from larger vessels and the failure to manage capacity in the small-scale sector itself—has made fishing within national waters unprofitable. In some cases, fishermen cross borders to sell their catches for a better price or to acquire inputs (nets, fuel) of better quality or lower price.

Unfortunately, it is also true that, in some cases, fishermen get mixed up with nefarious activities like smuggling and trafficking of humans. Authorities are often harsher with fishermen who are suspected of involvement in such illegal activities. As a result, innocent fishermen also suffer for the misdeeds of a few.

The response of authorities to transborder fishing by small-scale artisanal boats varies. Where the local fishermen do not object, many a government is willing to ignore transborder fishing by fishermen from neighbouring countries. In many instances, the coast guard or navy just chases away the vessels that cross the borders and send them back home without attempting to arrest or detain them.

The next level of action is to put the arrested fishermen through the legal process. The periods of detention can vary considerably, depending on the commencement of legal action. If the fishermen are found guilty, they are fined. However, they are normally placed on remand until the court case is over, which can take months, if not years. The provision for bail is not very useful as fishermen caught in a foreign nation cannot be let loose.

Long spells in prison

Thus, legal action inevitably means long spells in prison, loss of livelihood, and great distress for the families involved. Many countries confiscate the boats, and the fishermen may lose their entire savings. Some of the boats

that are returned after months are often beyond salvage. In countries like the Maldives, the fine for recovery of a boat can be so prohibitively high that the fishermen may just opt to leave the boat behind. Repatriation has its own problems associated with the issue of temporary passports and flight tickets.

While many of the actions taken against transborder fishermen may be justified in terms of protecting fish resources and national sovereignty, there are several human-rights issues

While many of the actions taken against transborder fishermen may be justified in terms of protecting fish resources and national sovereignty, there are several human-rights issues involved.

involved. Many of the actions are in violation of the spirit of Article 73 of UNCLOS, which states that no fisherman may be punished with imprisonment for fishing in the EEZ of another country. Specifically, it notes:

- i. The Coastal State may, in the exercise of its sovereign rights to explore, exploit, conserve and manage the living resources in the exclusive economic zone, take such measures, including boarding, inspection, arrest and



Pakistani fishers released from an Indian jail arriving in Karachi. Fishermen on both sides of the Indo-Pak maritime border are often caught for fishing in each other's waters

Countries need to enter into bilateral agreements that address the root causes of transborder fishing...

- judicial proceedings, as may be necessary to ensure compliance with the laws and regulations adopted by it in conformity with this Convention.
2. Arrested vessels and their crews shall be promptly released upon the posting of reasonable bond or other security.
 3. Coastal State penalties for violation of fisheries laws and regulations in the exclusive economic zone may not include imprisonment in the absence of agreements to the contrary by the States concerned or any other form of corporal punishment.
 4. In cases of arrest or detention of foreign vessels, the coastal State shall promptly notify the flag State through appropriate channels, of the action and of any penalties subsequently imposed.

Many a time, the families of the arrested fishermen do not get timely information on their whereabouts, and so undergo severe stress. Arrested fishermen have little local support, as a result of which very little accountability is demanded of enforcement agencies. To strengthen their case against the fishermen, law enforcement authorities often hoist on them a variety of other charges, in addition to the charge of illegal fishing, which is normally dealt with leniently by courts.

Ways and means should be found to protect fishermen from long periods of detention; there should also be a lenient approach to small-scale fishermen who are arrested in territorial waters rather than in the EEZ. National laws dealing with illegal fishing need to be reviewed to see if issues pertaining to small-scale fishermen are dealt with specifically and fairly. The United Nations (UN) needs to consider the possibility of some international supervision to establish the fairness of treatment of fishermen

arrested for transborder fishing within the territorial waters as well as the EEZs of non-flag States.

Countries need to enter into bilateral agreements that address the root causes of transborder fishing, and resolve the issue with an emphasis on equity and humanitarian considerations, and taking into account the traditional fishing practices of small-scale and indigenous fishers from adjacent maritime States. Countries need to improve fisheries management within their own borders to reduce pressure on small boats to fish beyond borders.

Administratively, mechanisms should be set up for the timely provision of information to families of arrested families. Also needed are channels for direct communication at lower levels of administration across borders. Mechanisms to distinguish genuine, bona fide fishermen from others—like identity cards and boat registers—are needed, as is legal assistance for arrested fishermen. Fishermen should also be educated about the consequences of undertaking illegal fishing in the waters of other States.

Organizations like the UN and FAO ought to document transborder fishing by small-scale fishermen to flag the key issues and suggest context-specific solutions. Regional consultations and workshops involving key stakeholders can sensitize officials and fishermen about transborder small-scale fishing.

For more



arrest-fishers.icsf.net

Arrest and Detention of Fishers

icsf.net/icsf2006/jspFiles/forgingUnity/docs/presentation/vivek.pdf

Indian Ocean Conference paper

www.icsf.net/icsf2006/uploads/publications/proceeding/pdf/english/issue_11/ALL.pdf

Indian Ocean Conference Proceedings

Certifying the Certifiers

Ecolabelling may well be a short-term solution to maintain the status quo of industrial fisheries and international trade in high-value species

On 13 October 2008, at Bangkok, Thailand, the Food and Agriculture Organization of the United Nations (FAO) opened its first conference dedicated to small-scale fisheries. Titled “Securing Sustainability in Small-scale Fisheries” (4SSF), the conference was a long time in the making. Prior to its opening, at the end of a Civil Society Preparatory Workshop, representatives of small-scale fishers from over 30 countries signed a Statement listing their concerns on a wide variety of topics, including ecolabelling. Article 22 of the Statement (see page 7) called on FAO, other United Nations agencies, regional fisheries bodies and national governments to categorically reject ecolabelling schemes.

While recognizing the value of area-specific labelling that could identify ecologically and socially responsible fisheries, small-scale fisheries representatives sent out the clear message that ecolabelling by organizations like the Marine Stewardship Council (MSC) is just a tool for the industrial sector, and does not help small-scale fishers. Well-known for slapping ecolabels on trawl fisheries, including some that have collapsed, and a fishery for the notoriously overfished Patagonian toothfish, the MSC—a child of two multinational parents, Unilever and the World Wildlife Fund or World Wide Fund for Nature (WWF)—took a drubbing throughout the conference.

Kurt Bertelson, of the Denmark-based non-governmental organization (NGO), Living Sea, called MSC a “money machine”. “Today MSC is closely connected with the privatization and capitalization of fisheries,” he said, noting that MSC criteria fail to look at

the energy footprints or social impacts of the fisheries it certifies. He added that the need for capital and profit in many of MSC’s certified fisheries would come at a cost to resources and ecosystems. “MSC defends itself by saying its certification will solve the problems of small-scale fishers. But promises without time frames may mean that there are no small-scale fishers left to be taken care of,” said Bertelson.

In general, ecolabelling was seen as a short-term solution to maintain the status quo of industrial fisheries

...ecolabelling was seen as a short-term solution to maintain the status quo of industrial fisheries and international trade in high-value species, which has often led to the collapse of fisheries.

and international trade in high-value species, which has often led to the collapse of fisheries. Ecolabelling was seen as a means by which powerful countries could continue to exploit, and profit from, fisheries in developing countries, opening markets for those who can meet ecolabelling’s questionable criteria and closing those same markets to others.

“By no flight of imagination are fisheries in most countries anywhere near the standards that are employed by MSC to assess certifiability,” said Sebastian Mathew of the International Collective in Support of Fishworkers (ICSF). Noting that efforts to bring certification to small-scale fisheries in developing countries are largely “donor-driven,” Mathew suggested that MSC channel its resources into

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PATRICIO IGOR MELILLANCA/ECOCEANOS



Informal area-specific labels may better identify marine products harvested sustainably. Such labels are more appropriate for an open and equitable society

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direct assistance to improve fisheries management in developing countries, rather than impose certification schemes that are seen by many as non-democratic. "Once the management regimes are in place," said Mathew, "let the fishers and their communities decide if it makes sense to go the MSC way, or, for that matter, any other way to recognize their products in the marketplace."

Article 22 of the Civil Society Statement offers the alternative of area-specific labels. Informal area-specific labels can identify products harvested under management regimes that ensure social and ecological sustainability. Such regimes can be, and have been, documented by numerous objective observers, from NGOs to the media, through transparent processes and widely accepted indicators. Informal area-specific labels benefit all participants in well-managed fisheries, particularly small-scale fisheries, without subjecting them to an arbitrary and often expensive hazing. These are the labels appropriate for an open and equitable society.

Complex schemes

Corporate-driven ecolabelling schemes move in the opposite direction. "I do not believe small-scale fisheries will benefit from a scheme like that of MSC," said Johan Williams, director general of Norway's Department of Marine Resources and Environment.

"Ecolabelling schemes are most complex," he added. "They require a lot of documentation, both on stocks and the actual fishing. Obviously, this is easier to accomplish in industrial fisheries." While Williams believes market forces can be used to promote better management, he does not see any market advantage for small-scale fishers. "It is obvious that the industrial fisheries that supply bigger buyers will win any competition with smaller actors," he said.

Some markets propose to buy only certified fish, locking out potentially sustainable fishers. For those who can pay to play their game, however, such markets create 'protection' systems, similar to those used by the mafia. On a slightly less sinister level, having organizations with vested interests in promoting and issuing labels, each according to its own criteria, can lead to a confusing array of labels on questionable products. One Swedish NGO has ecolabelled farmed salmon, mass production of which is clearly unsustainable, and MSC has ecolabelled Alaska pollack, a fishery headed for trouble.

At this rate, we will soon need an organization to certify the certifiers. It would be better, as many of the participants at the Bangkok meet suggested, to establish a global economy that distributes wealth equitably and balances the interests of seafood trade and local consumption, all based on ecological and social responsibility. 3

For more



icsf.net/icsf2006/uploads/publications/dossier/pdf/english/issue_56/ALL.pdf

Fish Stakes

www.msc.org

Marine Stewardship Council

Formalizing Indigenous Fishing Rights

Recent developments in Norway seem to indicate that the rights of the traditional small-scale Coast Sami people will finally be formally recognized

The coast and fjord area in northern Norway—mainly north of the Arctic Circle—is home to the indigenous Coast Samis, a branch of the Sami people who live in four different countries, namely, Sweden, Finland, Russia and Norway. They have been living on the shores and along the fjords of the Barents Ocean for thousands of years, with very well-developed skills and technologies to cope with the harsh nature of this northernmost part of the European mainland. Even though they have utilized the marine resources in the area for generations, they have never exceeded the limits of natural sustainability.

The Coast Samis have been living in the region long before the Norwegian State was established, before they were outnumbered by ethnic Norwegians who moved into the area. Little wonder then that the northernmost county of Norway is called Finnmark, “The Land of the Sami”.

Until the latter part of the 19th century, the Coast Samis made their living by hunting marine mammals and different land-based species, and from small-scale fishing and some subsistence farming. But for more than a hundred years, they have had to constantly struggle to safeguard the traditional and customary fishing areas in their local waters.

At the start of the 20th century, new and more effective fishing equipments were introduced in Norway’s fisheries. The first trawlers appeared and the exploitation of herring for industrial purposes started. The purse-seine and the Danish seine soon came into

widespread use. The fishing vessels were built larger, and equipped with the most sophisticated technology to find fish.

For a very long period, no measures were taken to protect the various stocks of fish from being depleted. The voices of the Coast Samis were totally ignored even as the high-tech deep-sea vessels enjoyed free access to even the smallest fjords. Around the middle of the 20th century, for a period, this fleet almost

Norway, with its high standards in matters relating to human rights and indigenous issues, cannot afford a situation where the basic material rights of the Coast Samis are endangered.

nearly totally eradicated the stocks of herring and capelin, and gravely diminished many other stocks, such as cod, the most important of the species caught even by Sami fishermen.

Even though the Coast Samis did not take part in the resource destruction, they have had to bear many of the heaviest burdens resulting from the breakdown of the fish stocks. They continue to bear these burdens, even in a situation where some success has been achieved in rebuilding stocks.

Quotas allotted

The Coast Samis’ practice of harvesting marine resources in a sustainable way did not fetch them any special rewards when new regulations were introduced or when quotas were allotted. The structures of power within Norwegian

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fisheries did not favour fishermen with vessels adapted to inshore or fjord fisheries. Thus it has been more and more difficult to continue the traditional Coast Sami way of living, combining small-scale fishery with husbandry, or other local industries.

During the last few decades, Norway has adopted a new and supportive policy towards Sami cultural and material matters, and has also been promoting indigenous rights at the international level. Several Sami institutions have been established. The Samis achieved constitutional recognition in 1988 and the next year, a Sami Parliament was established. Norway was the first country in the world to ratify the 1990 International Labour Organization (ILO) Convention 169, on the rights of indigenous peoples.

But there is one area where the new policy has had little visible effect—within management of the sea fisheries, with the central fishery authorities being very unwilling to recognize the link between small-scale fisheries and indigenous rights, most obviously in northern Norway.

In 1989-90, the fishery authorities introduced a new way of allocating fishing rights—the so-called vessel quota. To obtain such a quota, the prescribed prerequisite was that you should have caught a certain amount of

cod in one of the preceding three years. The amount was not extremely high. But for most fishermen with smaller boats in the Sami districts, that prerequisite was impossible to fulfil. The reason was that during the 1979-88 period, there had hardly been any cod in many of the fjords in the northernmost marine Sami areas. That was due to a natural disaster—the invasion of harp seals during the period, which prevented cod from coming into the fjords.

The result was that many small-scale fishermen, mainly Coast Samis, were systematically excluded from obtaining vessel quotas. Instead they were transferred to a competitive quota, under which they simply had no possibility of earning adequately to make a living. Customary law was not taken into account at all, when this was decided on.

Over the last few decades, the king crab, introduced by the Russians from the Pacific to the Barents Ocean, has invaded the waters along the coast and in the fjords of northernmost Norway. When the commercial king crab fishery started in 2002, boats shorter than 8 m were automatically excluded from the fishery. The other criterion for obtaining a fishing licence was the requirement of having caught a certain amount of cod in two of the three preceding years. For many fjord fishermen, that prerequisite was also hard to fulfil, because net- and longline fishing had already been severely hampered by the immense number of king crabs in the fjords.

In simple terms, this meant that the smaller boats that could not fish cod any more, because of the presence of king crabs, were denied the right and the possibility to fish the crab. It was not until 2008 that this injustice was repaired.

Legal standards

In 1990, a report from one of the most outstanding legal experts in Norway, Carsten Smith (who went on to become Chief Justice), pointed out that the Norwegian State, by internal and international legal standards, is obliged to take Sami interests into account when regulating the sea fisheries in Coast Sami areas. Even though in 1992 the national Parliament

STEINAR PEDERSEN



Coast Sami fishers in Deanodat, the innermost part of the Tana fjord, east Finnmark. The basic material rights of the Coast Samis are endangered

of Norway expressed itself in favour of such legislation, no significant changes occurred.

Then, after many setbacks, in 2008 the high-ranking Coastal Fisheries Committee for Finnmark, with Carsten Smith as chairman, formulated an indigenous and regional rights approach to small-scale fisheries along the following lines:

- Everybody along the coast and fjords in Finnmark should have a right to fish adequately to make a decent living for a household, without having to buy a quota.
- The quota is personal and cannot be traded.
- The basis of this right is historical utilization and international and indigenous law.
- The right is independent of fishery regulations, but sustainable use has to be taken into account.
- This right should be formalized in a separate Act.
- Furthermore, if it is necessary to limit the fishery, Coast Sami fishing activity has the prerogative.
- People along a fjord should have a stronger fishing right for the area, than others elsewhere. Outside the fjords, fishermen from other regions should also be given access to the fishery.
- A new administrative body—Finnmark Fishery Agency—is proposed.
- The agency should have six members, three appointed by the county council of Finnmark, and three by the Sami Parliament.
- Finnmark Fishery Agency is anticipated to have the competence to regulate fishing activities out to four nautical miles from the coastline.
- Even more important, the Finnmark Fishery Agency shall also allocate quotas and fishing rights.

Providing quotas for the Finnmark Fishery Agency is, of course, a matter of great concern. According to Section 8 of the proposal from the Coastal Fisheries Committee for Finnmark, the State should provide the Finnmark Fishery Agency with sufficient resources, in the form of capital, quotas or fishing licences, to safeguard the material basis



A Coast Sami fisher in Deanodat, with a catch of king crabs that he was not allowed to sell. Quotas and licensing have, until recently, prevented Coast Samis from catching crabs

of the Coast Samis and other coastal cultures in Finnmark. Therefore, the adoption of the proposals from the committee offers a unique opportunity for the Norwegian government and parliament to secure the future of the small-scale fishing communities in the north of Norway, and, not least, to also incorporate this sector of society into the general positive nature of Norwegian indigenous policy, both domestically and internationally.

Let me conclude by being both moralizing and imperative. Norway, with its high standards in matters relating to human rights and indigenous issues, cannot afford a situation where the basic material rights of the Coast Samis are endangered. For that reason, my true belief is that the main elements of the proposals from the Coastal Fisheries Committee for Finnmark will be formalized by an Act adopted by the Parliament.

This model may also have elements transferable both to indigenous and non-indigenous areas in other parts of the world where the rights of the traditional small-scale fisher people are not recognized or otherwise settled in a proper manner.



For more



www.saamicouncil.net/?deptid=1113

Sami Council

finnmarksloven.web4.acos.no/artikkel.aspx?Aid=146&back=1&Mid1=123

Finnmark Act

Now Let's Take It Forward

In the light of the discussions at the Bangkok meet on small-scale fisheries, it is time to work towards the future of the sector worldwide

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Undeniably, the Civil Society Statement adopted at Bangkok on 13 October 2008 by the Civil Society Preparatory Workshop, prior to the Global Conference on Small-scale Fisheries (4SSF), organized by the Food and Agriculture Organization of the United Nations (FAO) and the Department of Fisheries, Thailand, and subsequently presented to it, was a singularly significant achievement. It marked the beginning of a new-found unity and common purpose of organizations active in small-scale fisheries across the world, beyond just the World Forum of Fisher Peoples (WFFP). While not perfect, the

harmful industrial aquaculture and undemocratic ecolabelling schemes.

The Statement will find resonance in all fishing communities, whether in developing countries or in industrialized, so-called 'developed' countries. While a new liberalism flourishes in these developed countries, their indigenous fishing communities are being displaced and marginalized to make way for luxurious corporate extravagance.

Ultimately, the belief that access to small-scale fisheries is a basic human right and not a tradeable or transferable economic commodity, holds steadfast in the Statement—as it did in the main 4SSF Conference. That this view never came under attack or challenge during the 4SSF Conference is significant. It is, therefore, self-evident that the perspectives argued in the Statement should have considerable influence in shaping the development of global and national policy frameworks for small-scale fisheries. Or will it?

There can be no illusion that the unity found in the Civil Society Statement is by no means complete or binding on absentee groups. Many who share the vision argued in the Statement stand outside only due to their physical absence or lack of knowledge thereof. Opportunities must be created to bring them under the banner of the Statement without diluting its central thrust. The Statement must be used to garner greater support in fishing communities across the world.

Policy positions

There can be no illusion too that FAO and national government policies will miraculously conform to the views argued in the Statement. Arriving at

While not perfect, the Civil Society Statement lays the basis for a global understanding of 'rights-based fishing'.

Statement lays the basis for a global understanding of 'rights-based fishing'. It is significant to highlight that the Statement had its origins in the contributions made by fishing communities at various forums organized in direct preparation for the Bangkok workshop.

The Statement traverses pre- and post-harvest processes, and intersects with various other themes critical to the protection of small-scale fisheries. Amongst these are value addition, gender equity, environmental protection, and the protection of the rights of local and indigenous communities. Activities and practices that have negative impacts on these processes are also addressed—like

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global policy positions (as mediated by bodies like the United Nations and FAO) are complex and intricate processes. Implementing these is even more challenging. Changing or developing national fishery policies are just as complicated. Competing national interests and the strong power that commercial conglomerates hold on these, often lead to the voices of small-scale fishing communities being confined to the fringes. Influential too is the carrot of easy money that international fishing companies offer developing nations' governments (particularly in Africa) to access their natural marine resources at the expense of the local small-scale fisheries. This is done in the misplaced belief that these monies will bring relief to poverty-stricken nations. Creative ways will have to be explored to address this matter.

The 4SSF Conference was silent about how the views expressed at Bangkok will be taken forward. How can a 'human-rights-based fishery' be achieved in real terms? What practical steps will be taken to 'walk the talk' of 4SSF? What is the future of 4SSF?

For 4SSF to be branded as a success, the following three areas will have to be addressed in the coming period.

National-level organization

It is imperative that small-scale fisheries maintain a high level of organization at local and national levels. Meeting local needs will not emerge from the mere adoption of an international 'consensus statement'. This must be supplemented by engaging in hard and active struggles on the ground on an ongoing basis. Communities must use every available organizing tool to articulate their demands and voice their aspirations. Fishing communities must find a space in the minds of influential policymakers. This is only achieved by being upfront, vocal and relevant.

Importantly, these activities must be inclusive and involve all stakeholders in small-scale fisheries who share the vision described in the Statement. But, critically, this work must also be done in a manner that empowers poorly literate and marginalized fishing communities to assert their rights as human

beings. The traditionally acquired knowledge of fisher people must be institutionalized and inserted into the general epistemic science worldwide. Traditional knowledge is relevant and will contribute to the sustainability of natural resource management.

Moreover, such organization must actively include women and other marginalized groups in the fishing or coastal community so that they can claim and protect their rightful places and equitable involvement in the sector. In many communities, the role of women has proven to be a powerful

It is imperative that small-scale fisheries maintain a high level of organization at local and national levels.

one. It both corrects their historical marginalization and the crucial role that they play in sustaining the social fabric of communities. This position must be alleviated and institutionalized.

Such national-level mobilization will contribute greatly to ensuring that the democratic voices of small-scale fishers become part of the national political landscape. This, in turn, will help to influence national policy.

International solidarity

It is necessary that we must reach international solidarity as much as we can. Such solidarity must translate into a global action plan to achieve the effect of the views expressed at the 4SSF meet.

Specific local challenges do not necessarily equate into global challenges. But it is clear that local issues can also be globalized into universal demands. Struggles at the national level can find their roots in a global ideological position. The adage of "acting locally while thinking globally" remains relevant. While some of the processes at the 4SSF meet were disempowering, WFFP, nevertheless, succeeded in making sure that the collective civil society voice was heard. The power of civil society must not be underestimated.



Guinean fishermen setting a gillnet while rowing. The concerns of small-scale fisheries cannot be forever relegated to the sidelines of the global agenda

The challenge is to extend this international solidarity. The more voices that can be rallied to support this position, the stronger will be the collective global voice of small-scale fishers. But critical is the need for an action plan that can drive this voice, especially now that we are no longer in the same physical space that 4SSF provided. What is needed now is the outline of such a global action plan. This must target all the existing international institutions as they currently exist.

FAO co-operation

Given that FAO was the principal organizer of the 4SSF Conference, it is necessary that it plays an active role to make sure that the views expressed at Bangkok are taken forward. It would be highly immoral for it to not think beyond Bangkok.

FAO has the power of influencing the agenda and work of its Committee on Fisheries (COFI). Civil society organizations must make sure that FAO stands tall to the task of placing the deliberations of the Bangkok meet on the working agenda of COFI. Hopefully,

FAO will do so by itself. Were that not to happen, the spirit of Bangkok would have been attained in vain.

Importantly also, the concerns of small-scale fisheries must be placed on the mainstream agenda of the United Nations. They cannot be forever relegated to the sidelines of the global agenda.

In conclusion, we should state that the tasks and challenges ahead are not easy. The Bangkok meet provided an opportunity for civil society to come together to express its views uniformly—and it did so powerfully. It also provided a platform for FAO to listen to, and intersect with, these views.

Now let's take it forward.

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For more



www.wffpfishers.org/home.html

World Forum of Fisher Peoples

sites.google.com/site/smallscalefisheries/

Civil Society Preparatory Workshop

Imagining the Future

The subsidiarity principle is one of the more powerful ideas to have been suggested for restructuring—or re-imagining—the fisheries field

If governance is defined as the capacity to think beyond the confines of sectoral interests and immediate needs, imagination is one of its key ingredients. Images of how society might look are critical to efforts for solving problems and opening opportunities. After all, the very definition of what constitutes a problem or opportunity depends also on the way the future is imagined. To take this discussion to the field of capture fisheries: Do we dare imagine the world's 30 mn fishermen happily leaving their dangerous occupations to blend into the industrial workforce? This is, after all, what has happened to countless other professional groups in history, and their erstwhile members are not necessarily the worse off for it. Or, to present a contrary view, do we imagine a world in which small-scale fishing communities are given historical rights to the resources that they have always relied on, and will hopefully live happily ever after? Although this image will appeal to many of those who support small-scale fishermen today, it also has its potential shadow-side: historical rights may not only keep others out, they can also lock people in. All we want to point out here is that it is not only important to possess images, but to investigate their possible consequences too.

Principles go beyond images. Where images paint pictures, express ideas and sometimes also formulate hopes, principles are the measuring rods that separate the wanted from the unwanted, the good from the bad. There are many principles floating around, and often they are unspoken. The subsidiarity principle is one of the more powerful ideas to have been

suggested for restructuring—or re-imagining—the fisheries field, not only with regard to management but also to technology. We, therefore, believe it is worth paying more attention to it.

The adjective 'subsidiary' is more familiar to the ordinary person than the noun 'subsidiarity': it suggests a relationship in which one entity is auxiliary to another. A subsidiary firm is thus a company that is owned by (or possesses a legal relationship with) another, bigger company. The derivative notion of 'subsidiarity' has its origins in the realm of political and legal thought, referring to the relationship between higher and lower political units in society. P G Carozza provides a working

Images of how society might look are critical to efforts for solving problems and opening opportunities.

definition in his paper, "Subsidiarity as a Structural Principle of International Human Rights Law" in *The American Journal of International Law* Vol. 97: "Subsidiarity is the principle that each social and political group should help smaller or more local ones accomplish their respective ends without, however, arrogating those tasks to itself."

Helping others

Carozza is discussing the relationship between groups or entities situated at various political and social levels, and their respective duties. In his formulation, subsidiarity refers to the task of higher political units to 'help' lower units in accomplishing their

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Small-scale fishers ought to be assisted by industrial fishers in negotiating how to share resources and territories. A scene from a fishing harbour in Chile

goals, without appropriation of these tasks taking place. We will return to this unusual perspective below.

Other definitions of subsidiarity emphasize the rights of lower units vis-à-vis higher ones, and the notion that whatever can be decided at a lower level should also be done there. The subsidiarity principle is thereby a potent force in protecting inferior units from the interference of their 'superiors': it is only if the task or issue cannot be effectively addressed by the inferior unit that the higher-level unit is allowed to step in. In the United States, the notion of subsidiarity has played an important role in defining federalism; in the European Union, it has recently been accepted as one of the constitutional principles. The Edinburgh European Council of December 1992 issued a declaration on the principle of subsidiarity, which was subsequently developed into a protocol by the Treaty of Amsterdam. Subsidiarity came to play an important role in structuring the relationship and the distribution of competences between European and national-level agencies.

In the field of fisheries, authors have referred to subsidiarity to discuss the relationship between government and user groups, and the role of participation therein (see, for instance, "From the Bottom Up: Participatory Issues in Fisheries Management: Issues in Institutional Design" by

B J McCay and S Jentoft in *Society and Natural Resources*, Vol. 9, No. 3, 1996). Following the 2004 tsunami in Asia, John Kurien in "Tsunamis and a Secure Future for Fishing Communities" in *Ecological Economics* 55, 2005, has used the term to discuss the responsibilities of various parties with regard to disaster relief. Both resonate an echo of the concerns of co-management, and the most appropriate way to distribute rights and responsibilities between the parties involved.

In his contribution to the discussion panel at the Sixth Meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea, in June 2005, Sebastian Mathew brings in another perspective. He suggests the implementation of "scale subsidiarity". By this he means the process "whereby larger fishing units are considered in a fishery only after exhausting the possibility of employing smaller fishing units in the same fishery." Small is hereby given priority over big—this is a symbolic reversal of events occurring in so many fisheries, in which the big and mighty have pushed the small off the lane.

Scale subsidiarity, or technological subsidiarity as we propose to call it, has results that are similar to other proposals for the support of small-scale fisherfolk. The Statement from the Civil Society Preparatory Workshop, prior to the Global Conference on Small-scale Fisheries (4SSF) in Bangkok in October 2008, thus requests access and management rights over local or traditional sea territories (Articles 1 and 2); Article 3 lends priority to small-scale fisheries in exclusive economic zones; and Article 4 strives to prohibit industrial fishing in inshore waters. In all these cases, small-scale fishermen are given territorial rights. These are motivated and anchored in a human-rights discourse that provides small-scale and indigenous fishing communities a preferential position.

Primordial rights

Although an application of the subsidiarity principle to technologies has similar consequences, it is rooted less in a discussion of primordial rights than in effectiveness. The argument is

that when small-scale fishers can do the job just as well (or better), they are given priority; when they are not yet up to the task, however, other parties have a role to play. But effectiveness with regard to what? Four criteria suggest themselves:

1. prevention of harm to the marine environment, which nurtures the fishery;
2. ability to catch what the ocean allows, taking account of environmental limitations, thereby contributing to the well-being of human society;
3. generation of a maximum of livelihood opportunities, in accordance with the need thereto; and
4. providing high-quality protein for consumers in local, national and international markets (in that order).

The advantages of small-scale versus industrial fishing are proven quite easily for criteria 1 and 4 above (although there will always be exceptions). This is not to deny that small-scale fishing sometimes has negative environmental consequences, and that improvements must be made. But the second criterion is more difficult to prove.

Can small-scale fishers indeed replace industrial fishers in capturing maximum sustainable yields? Are there not many instances where this would be done away as wishful thinking? After all, some fishing grounds are distant, and some target species are not within reach of small-scale fishing technology.

Applying the subsidiarity principle technologically would, therefore, need careful consideration of the particular ecological and social contexts because, at the end of the day, it is that context that determines what technology is appropriate or not. Then we would also need a finer gradient than 'big versus small'; the technology most appropriate to the situation may well be of intermediate scale.

It is easy to see that the scaling up or down of fishing technology that is already in place and in use is challenging. It would need a governance mechanism with sticks and carrots, and a design that allows decisionmakers to know

and understand the particularities of the social and ecological system within which the technology shall operate. Thus, organizational subsidiarity accompanies technological subsidiarity.

In conclusion, we would like to go back to Carozzo and his definition of subsidiarity, which argues that social and political groups should 'help' smaller or more local ones to accomplish their respective ends. Translated to fisherfolk and their technologies, it suggests that industrial fishers should assist small-scale fisherfolk in doing their work, before seeing what is left for themselves to do. A start would be for small- and large-scale operators to get together and negotiate a deal on how to share resources and territories between themselves. A deal developed from the bottom up is likely to be more sustainable than one imposed on fisherfolk from the top down.

...industrial fishers should assist small-scale fisherfolk in doing their work, before seeing what is left for themselves to do.

Facilitating such encounters would be among the responsibilities that government agencies should assume if no one else is there to initiate them.

This would appear to be a wonderful idea—not treating industrial fishers as the 'bad guys' who have to be forcibly removed from the sector, but as compatriots who have a role to play *vis-à-vis* their weaker brothers.

As an idea, it may seem far-fetched, but not necessarily impossible to realize. As some would argue, it is a matter of getting the institutions right—and the principles behind them.

But before we can make it happen, we have to imagine it, as imagination is the mother of all social, institutional and technical reform. Before we can do something, we have to dream it.

For more



icsf.net/icsf2006/uploads/resources/presentations/pdf/english/1118331992550***uni0101.pdf
Small-scale Fisheries Perspective on an Ecosystem-based Approach to Fisheries Management

The Privatization of Mangroves

Indigenous and traditional peoples in Ecuador are demanding that shrimp aquaculture companies be penalized for seizing mangrove areas

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On 15 October 2008, Rafael Correa Delgado, President of the Republic of Ecuador, and four Ministers of State, promulgated Decree 1391, which regularizes industrial shrimp aquaculture. But the Decree contains an inherent contradiction. On the one hand, it recognizes the illegality of the thousands of hectares of ponds dedicated to shrimp aquaculture (for hatching and rearing tropical shrimp), as well as the clearing of mangroves that results from the activities of the shrimp industry. On the other hand,

demanded, of successive governments, the restoration of mangrove areas occupied with impunity by industrial shrimp aquaculture.

Mangrove ecosystems are regarded as amongst the five most productive types of ecosystems in the world. Alarmed by their destruction, Ecuador's Official Register No. 722 of 6 July 1987 declared as a 'protected forest', a land area covering 362,802 ha, located in five hydrographical systems of coastal Ecuador, containing mangroves, other forest species and saline areas.

A study carried out by the Centre for Integrated Natural Resource Mapping by Remote Sensing (Centro de Levantamientos Integrados de Recursos Naturales por Sensores Remotos or CLIRSEN) in 2000 revealed that 254,593 ha of mangroves had been cleared, equivalent to 70 per cent of Ecuador's original mangrove area. On the other hand, the III Agricultural Census of 2001 determined that there were 234,359 ha of shrimp farms.

Historically, Ecuadorian legislation has prohibited the felling, burning or destruction of mangroves. Penalties for such destruction include fines, forced restoration of the area destroyed, and even imprisonment.

Communities deprived

However, the recent Decree 1391 completely ignores current legislation, and rewards the shrimp aquaculture industry that has destroyed the mangroves and deprived local communities of their sources of life and livelihoods, requiring them to reforest only a minimal percentage of what was

...the recent Decree 1391 completely ignores current legislation, and rewards the shrimp aquaculture industry that has destroyed the mangroves and deprived local communities of their sources of life and livelihoods...

the illegality ends up being rewarded through the gifting of concessions to the shrimp industry in areas categorized as 'national assets for public use' (Bien Nacional de Uso Público), thus violating 56 legal provisions that have protected Ecuador's mangrove ecosystems since the 1970s.

The measure that 'regularizes' illegal actions (which, in practice, will now become legalized) sets a precedent of legal uncertainty for environmental matters and in securing the economic, social, cultural and environmental rights of indigenous and traditional fishing communities and communities of artisanal gatherers on the Ecuadorian coast, who have been violently displaced from their territories and who have unrelentingly

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destroyed, and absolving them from the payment of fines and other punitive measures.

Decree 1391 not only violates Ecuador's laws and codes, but, above all, the text of the Constitution, approved by majority vote on behalf of the Ecuadorian people on 28 September 2008. The new Constitution, commended internationally for its progressive constitutional text, establishes a series of environmental rights, water rights and people's rights, which are now violated by Decree 1391.

The lives of indigenous peoples and traditional communities in mangrove ecosystems are intimately linked to their natural environment. Not only does the ecosystem benefit local communities, but it also fulfils ecological functions that are vital for the planet. It is worth recalling the terrifying Indian Ocean tsunami of December 2004, in which the destruction of mangroves, which had previously provided a natural protective barrier and windbreak against storms and tidal surges, resulted in entire towns being demolished and thousands of people killed or gravely injured, not to mention enormous material damages.

Mangroves are also important for the desalination of waters that flow inland, which allows the use of coastal lands for agriculture, particularly for food production. The fish, molluscs and crustaceans—protected during their spawning and larval stages by the mangroves' elevated root systems—are the main source of food for the people of Ecuador.

Ecuadorians' food sovereignty will be seriously affected by the privatization of the country's coasts, and by handing them over to industrial shrimp aquaculture. The industry produces prized crustaceans for export, which grace the tables of consumers in the North, as cultivated shrimps are rarely eaten in the producer countries, being principally an export commodity. And all this is happening at the cost of the mangroves, which support the life of the fish, molluscs and crustaceans.

Faced with resistance to shrimp consumption by environmental and consumer groups in Europe, due mainly to the high levels of chemicals and

antibiotics used in intensive industrial aquaculture, in recent decades, the industry has opted for organic shrimp production, aiming for a 'green' label for their product.

Ecuador is a country that pioneered shrimp certification. The German company, Naturland, has been certifying shrimp ponds in Ecuador since the 1990s. However, despite all this 'responsible' certification of shrimp

Ecuador is a country that pioneered shrimp certification. However, despite all this 'responsible' certification of shrimp ponds, mangroves have been felled...

ponds, mangroves have been felled; rivers, estuaries and canals polluted; and countrywide, people who gather shellfish and crabs have been displaced and even murdered, sometimes simply for passing by the shrimp ponds.

Green label

Organic shrimp may well benefit the health of consumers in countries of the North so long as it can be proved that the entire shrimp production chain is organic. This is not the case, as shown by international organizations that have analyzed the certified shrimp products. While a green label implies that production is environmentally and socially beneficial, in actual reality, this is not the case in Ecuador.



Santa Cagua, woman shellfisher from Muisne, Esmeraldas, Ecuador. The destruction of mangroves in Ecuador is depriving local communities of their sources of life and livelihoods

C-CONDEM

C-CONDEM is a grouping of associations and grass-roots communities of gatherers and artisanal fishers, federations, and unions of indigenous and traditional communities from mangrove ecosystems, as well as environmental and social NGOs from Esmeraldas, Manabí, Santa Elena, Guayas, El Oro and Pichincha in Ecuador.

C-CONDEM's mission is to defend, conserve and restore mangrove and associated ecosystems, securing their vitality, as well as that of the indigenous and traditional communities who are faced with threats and negative impacts from environmentally destructive activities.

This is what the representatives of the non-governmental organizations (NGOs), National Co-ordinating Committee for the Defence of Mangrove Ecosystems (C-CONDEM) and Redmanglar International were demonstrating about during the so-called "Shrimp Dialogue" promoted by the World Wide Fund for Nature (WWF) at the start of the month of October in Ecuador in the city of Guayaquil. This supposed 'dialogue' was announced as part of the Aqua Fair (Feria Aqua) 2008, a meeting of shrimp companies from around the world, in which local communities had no place whatsoever.

At the end of that fair, representatives from the affected communities published a letter (see http://www.ccondem.org.ec/imagesFTP/7180.carta_ingles.pdf) in which they described the reasons why the principles that form the fundamental basis for shrimp certification should be rejected. They are demanding that, rather than having a dubious 'shrimp dialogue' to certify the shrimp aquaculture industry, an international tribunal should be created to investigate and punish the shrimp industry for all the crimes against humanity that it has committed.

Certification has the objective of assuring the consumer of a socially and environmentally responsible

product. However, in the case of shrimp aquaculture in Ecuador, certification is based on the destruction of the mangrove ecosystem and the impoverishment of the country's indigenous and traditional peoples.

The mangrove ecosystems provide the basis for feeding Ecuador's people, and they generate honest jobs for local communities, in a context where shellfish beds, and fish and crab stocks are being wiped out daily. Their natural habitats are disappearing under the barrage of mechanical diggers, which, in the space of days, can transform a rich and luxuriant thousand-year old mangrove area into a shrimp pond.

Indigenous and traditional populations from the areas of Ecuador that have long supported mangrove ecosystems demand that Decree 1391 be repealed and that shrimp aquaculture companies be penalized for seizing mangrove areas. This has been reiterated in the Manifesto of Indigenous and Traditional People from Mangrove Ecosystems against the Regularization and Certification of the Shrimp Aquaculture Industry (see <http://www.ccondem.org.ec/boletin.php?c=518>).

For more



www.clirsens.com

Directorio del Centro de Levantamientos Integrados de Recursos Naturales por Sensores Remotos (CLIRSEN)

www.ccondem.org.ec

C-CONDEM

Managing to Protect

The book under review presents an overall guideline framework for the planning, design, establishment, implementation, management and evaluation of protected areas

Protected areas (PAs)—“geographically defined area(s) designated or regulated and managed to achieve specific conservation objectives”—are regarded as one of the most important tools for the conservation of biodiversity. The Convention on Biological Diversity (CBD) aims at ensuring that, by 2010, at least 10 per cent of the world’s ecological regions are effectively conserved as PAs. That goal has fuelled the growth of PAs in both terrestrial and marine ecosystems, and there is an increasing trend to ‘mainstream’ PAs, as part of a complex social, economic and biophysical matrix.

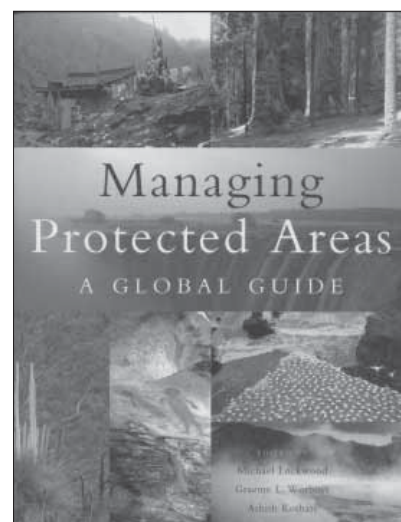
The book under review, brought out by the International Union for Conservation of Nature (IUCN), and largely targeted towards PA managers and students, is an outcome of the Vth IUCN World Parks Congress, held in Durban, South Africa, in 2003. It addresses the social, cultural, economic, scientific and managerial aspects of PAs, focusing on the best practices for PA management. It emphasizes the need for conservation along with community development, good governance, participatory decisionmaking, poverty alleviation and equitable sharing of the costs and benefits of protection.

The guidebook has 26 chapters, divided into two parts, and is supported by case studies from different parts of the world. The core chapters in Part I cover natural heritage; social dimensions; PA types and supporting institutions; values and benefits; governance issues; management processes; and capacity development. The first chapter provides a biogeographical context for the establishment and management of PAs, with illustrations from selected world

heritage sites. The second chapter views PA management as a dynamic process that exists in conjunction with wider social, historical, economic and cultural influences. The authors draw on the Human Development Index of the United Nations Development Programme to classify the countries in the case studies, rather than the standard ‘developing’ and ‘developed’ country classification. For conservation goals to succeed, the traditional and emerging paradigms for managing PAs need to keep in mind social and economic objectives. This is highlighted in a case study from the community-managed marine protected areas (MPAs) in the Pacific, especially in Fiji, Samoa and Vanuatu, where MPAs are managed through a partnership between the community and governmental and non-governmental organizations (NGOs).

A number of international processes, agreements and institutions are involved in the management of PAs, as explained in the third chapter of the book, which outlines the important international conventions and treaties, national laws and local regimes and institutions that govern PAs. Governance is about power, relationships, responsibility and accountability, all of which depend on formal mandates, institutions, processes and legal and customary rights. The book under review analyzes the different roles played by various actors such as national and sub-national government agencies, NGOs, private landowners, indigenous peoples, local communities, civil society, and international institutions.

PA managers will find particularly useful the chapter that explains the four main aspects of managing PAs, namely, planning, organizing, leading and



MANAGING PROTECTED AREAS:
A GLOBAL GUIDE
Edited by Michael Lockwood, Graeme
L. Worboys and Ashish Kothari. London:
IUCN, 2006. pp 802.

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Consultant, ICSF

IAN BRYCESON



A seaweed farmer in Mafia Island Marine National Park, Tanzania. Marine parks are being increasingly promoted all around the world for the conservation of biodiversity

of adaptive and participatory planning processes.

The chapter on sustainability practice and sustainable use addresses sustainable management of extractive uses, and how to implement sustainable practices within management organizations. It also shows how harvesting of resources is affected when the local community is not directly involved in setting up the MPAs. In the case of sustainable-use PAs, there is need for an institutional framework that involves all stakeholders, and a comprehensive management plan, based on an adaptive approach, as elaborated in the case study of mussel harvesting in the Mapelane reserve in South Africa.

Collaboratively managed PAs (CMPAs) and community conserved areas (CCAs) are increasingly being seen as the PAs of the future, where communities are placed at the centre stage of the conservation goal, rather than being shunted to the periphery. One chapter in the guidebook elaborates the different forms of CMPAs—co-managed, jointly managed and multi-stakeholder managed PAs—where decision-making power is shared between State agencies and other partners, especially focusing on indigenous peoples and local communities. Among the problematic issues identified are the denial of cultural identity and rights of communities; inadequate policies and laws; rigid, universal prescriptions; and inadequate capacity for implementation of management measures. A case study on the Galapagos Marine Reserve, Ecuador, discusses the co-management approach.

Legal relationship

CCAs—defined by IUCN as ecosystems conserved by indigenous and local communities through customary law or other effective means—have different characteristics, including motivations for conservation, community rules and regulations, social and economic benefits, and legal relationship of the community to the CCA. Ashish Kothari, in the chapter on CCAs, elaborates on the benefits, challenges and limitations of such PAs. While CCAs are practised in one form or another in many countries,

controlling. Another chapter deals with developing the capacity of individuals and organizations to manage PAs. It outlines the components of a framework for capacity development and assessment of capacity needs, with case studies from the Philippines.

While the first part of the book attempts to inter-link various theoretical concepts and frameworks for PA management, the second part uses case studies from Brazil, the United States and Canada to elaborate the principles and practices followed for establishing PA networks in terrestrial and marine environments.

For the effective management of PAs through their design, planning, implementation and evaluation stages, baseline quantitative data is essential. The different methods needed to collect such data, and the communication strategies required for effective dissemination, are elaborated. One of the case studies used to explain this process draws on the experience of community participation in managing the Apo Island MPA in the Philippines.

The chapter on area-based management planning, especially for government-designated PAs, highlights the need for a strategic, adaptive and participatory process in the development of management plans. It stresses the need for clear-cut goals and indicators, and an intelligent mix

they are not legally recognized nor included in all national systems of PAs. It is important for them to be recognized, in the context of an established system of rights and responsibilities. Kothari also stresses that the issue of equity (including gender equity) within communities needs to be tackled as well.

The chapter on MPAs by Jon Day specifically focuses on MPAs as a form of PAs that seek to manage the human values, behaviour and uses that affect the marine environment. Various aspects need to be kept in mind, including the need for a network of PAs, rather than a single PA, with different approaches for management and governance. This chapter, which is biased towards the Great Barrier Reef Marine Park in Australia, highlights the need to consider the differences in the ecosystem characteristics of terrestrial and marine ecosystems while designing conservation practices.

While MPAs can help conserve biodiversity and enhance fish stocks, as one chapter in the book points out, only an integrated approach to marine conservation will ensure long-term social and economic sustainability for communities. Environmental and ecological circumstances must be juxtaposed with cultural and socio-political contexts as well as the economic and logistic feasibility of managing PAs.

The second part of the book discusses establishing PAs, managing, financial planning, sustainable practice and use, threats to PAs, and natural and cultural heritage management. This part also has chapters that are specific to CMPAs, CCAs and MPAs, besides a chapter on evaluation of management effectiveness, and identifying the challenges and opportunities for the future.

Useful summaries


Usefully enough, most of the chapters in the guidebook end with a summary of management principles. Though a number of case studies are from terrestrial ecosystems, the principles elaborated could also be adopted for MPAs. The six appendices of the book provide information on the chronology

of PAs, the outputs of the World Parks Congress, and the total number and area of national PAs as identified by the World Commission on Protected Areas.

This review has not touched on all the chapters in Part II, but only on those aspects that pertain to MPAs and communities. Some of the other important components of PA management discussed in the book are sustainable financing; managing staff, finances and assets; operations management; natural heritage

...only an integrated approach to marine conservation will ensure long-term social and economic sustainability for communities.

management; cultural heritage management; incident management; and tourism and recreation.

The guidebook presents an overall framework for PA planning, design, establishment, implementation, management and evaluation. On the whole, it is a comprehensive book, with examples from different parts of the globe, and it comes at the right time, when countries are working towards fulfilling their obligations to the CBD targets. It is important that current and future PA managers, policymakers and NGOs keep in mind the challenges outlined in the book. While the book does cover most aspects of PAs, it would have been interesting to have focused on gender, though, admittedly, a few chapters have tried to weave in the issue. 

For more



www.icsf.net/icsf2006/jspFiles/mpa/overview.jsp

Marine Protected Areas

www.iucn.org/about/union/commissions/ceesp/wg/tilcepa/index.cfm

IUCN-TILCEPA

SOMALIA

Piracy and politics

Ever bolder pirate attacks have—out of nowhere, it has seemed—put Somalia on the front pages and screens of international media. This world attention has a bitter aftertaste, for it comes after a long period of neglect by this selfsame media of persistent internecine warfare and humanitarian crisis in the country.

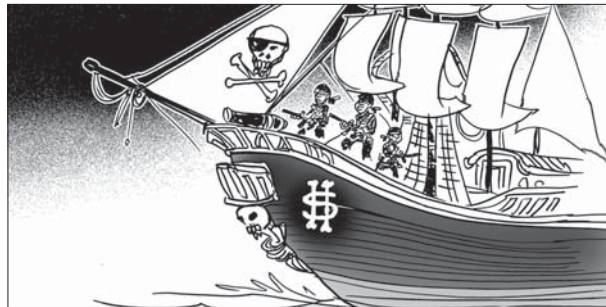
The current phase of attention was triggered by the seizure on 15 November 2008 of the giant Saudi oil-tanker *Sirius Star*, carrying a \$110-million cargo of crude oil on its way to the United States. The *Sirius Star*, 330 m in length, is the biggest ship ever hijacked. But if this was the most spectacular of a series of such attacks, it was far from the first. From the hijacking of a French yacht in April 2008 to that of a Ukrainian tank-carrying freighter in September, the crisis that is now drawing the attention of Western navies and policymakers has been long brewing.

The involvement of Somalis in piracy is rooted in the

circumstances of an internal conflict that has lasted since the early 1990s. There has for years been no authority to enforce and regulate Somalia's fishing area along its coast—itsself the most extensive in the whole of Africa. The result has been that local Somali fishing-fleets have no protection or

with foreign fishing-crews being held to ransom.

The story of poor Somali fishermen trying to survive by engaging in piracy may never have told the whole story—and today, for sure, it no longer holds true. For the situation now is also one of heavily armed pirates operating from



rights over the country's seas, and that international fleets have been able to command the waters and Hoover up the country's fishing-stocks. The grievances over this issue led local Somalis to seek to extract "licence-fees" from the international fishermen. Over time the situation escalated,

larger mother-ships in the open sea, far away from the Somali coast. In 2008 alone, they have extracted an estimated \$150 million in ransoms, which have allowed them in turn to purchase more sophisticated equipment used to capture large merchant vessels.

Most of the current pirate attacks are organized in port towns like Eyl in the semi-autonomous Puntland region. After several years of relative stability in Puntland, in 2008 the general security situation there has deteriorated. An increase in criminality and violence means that the regional authorities are ever less able to control their own territory.

—Georg-Sebastian Holzer in openDemocracy.net
www.opendemocracy.net/article/somalia-piracy-and-politics

KENYA

Save mangroves or perish

According to James Kairo an environmentalist and researcher at the Kenya Marine and Fisheries Research Institute and the National Research Institute in Mombasa, Kenya, the Western Indian Ocean region has embarked on a programme to restore mangrove forests, following years of destruction fuelled by economic motives.

Kairo told journalists during a recent forum in Zanzibar that programmes were currently on for replanting mangrove forests through afforestation programmes. Not restoring mangrove forests could be potentially dangerous for coastal communities, he said, considering the predictions on rising sea levels. He pointed out that mangroves have long contributed directly to rural livelihoods along the Kenya coast by providing 70 per cent of the wood requirement for building and fuel. Mangrove forests are also home to many fish species. Mangroves also protect the coastal region from erosion and the impact of tides and waves. Kairo pointed to the December 2004 Indian Ocean tsunami, whose effects were felt as far as East Africa. The presence of mangrove forests could have reduced the intensity of the waves before they hit land.

ORGANIZATIONAL PROFILE

Pacific Coast Federation of Fishermen's Associations

The Pacific Coast Federation of Fishermen's Associations (PCFFA) is by far the largest and most politically active trade association of commercial fishermen on the west coast of the United States (US). For nearly the last 30 years, it has been leading the industry in assuring the rights of individual fishermen, and fighting for the long-term survival of commercial fishing as a productive livelihood and way of life.

PCFFA is an 'umbrella' group made up of diverse associations along the west coast.

It is a federation of many different port and fishermen's marketing associations, with members spanning the United States west coast, from San Diego to Alaska. It is funded principally through assessments on catches, collected at

the local port level. It is a 'bottom-up', rather than 'top-down' organization; it begins with the individual fishing man or woman.

More than any other fishery organization on the US west coast, PCFFA has come to embody the working family fisherman. It focuses on small and medium-sized family businesses, conducted from vessels fishing distant grounds, to small

boats fishing in nearshore waters. PCFFA provides individual fishermen a vehicle to protect themselves and their industry, to

assure the sustainable protection of the fragile resources they depend on, and a vehicle for empowerment. PCFFA attempts to give fishermen a say in their future. For more information, please visit www.pcffa.org



EXCERPTS

Rights-based management approaches

It is frequently helpful to put the topic of rights-based systems into a bit of perspective. Contrary to much of the media coverage of the use of property rights in fisheries management, rights-based fisheries systems are not limited to individual transferable quota (ITQ) systems. Indeed, it is possible to say that all fisheries management systems are based on user rights. It is simply the degree to which the four characteristics (exclusivity, durability, security and transferability) are defined—that is, the strength of the total bundle of rights—that distinguish fisheries management systems and the incentives they create for fishermen.

Systems based on licences (or some other definition of participants), whether they limit access or not, somehow determine who may participate in a fishery. However, when used alone, the generally competitive nature of individual fishermen (regardless of whether their boats are large or small) will cause them to invest in technologies (better paddles, sails, fishing gear, etc.) that help them increase their catches and revenues. As a result, these systems set up incentives to overinvest and overfish, resulting in conflicts and overcapacity. To avoid this, licensing and limited-access systems, in general, need to be accompanied by regulations to allocate sustainable units of catch or effort amongst the different rights holders.

Customary access/tenure programmes, as well as various types of territorial and group user rights in fisheries, define many of the questions of authority, rights and rules and thereby set up positive incentive structures for participants. These systems encourage participants to take care of the resources, but only for the duration and the

exclusivity of these rights. Moreover, if not supported by contemporary laws, customary programmes are not always respected by people outside the customary system and are weakened when national, regional and global forces are brought to bear on the fishery, causing conflict and competition.

The category of most clearly defined rights-based systems is comprised of catch

the problem of discarding, motivated by 'high-grading' as well as possible concentration of shares to a small number of the rich at the exclusion of the poor.

Not surprisingly, there are common issues that are crucial and applicable for all of these different systems. One is the ability to monitor and to enforce catches effectively. Another is whether the system readily encourages fishers to

create the conditions and incentives for fishermen to work to maximize their profits on limited amounts of catch—and they do this by minimizing their costs, catching fewer fish, and becoming stewards of the resources they have the rights to use. Indeed, with the new demands for the ecosystem approach to fisheries, clear and secure fishing rights are essential because they create the environment in

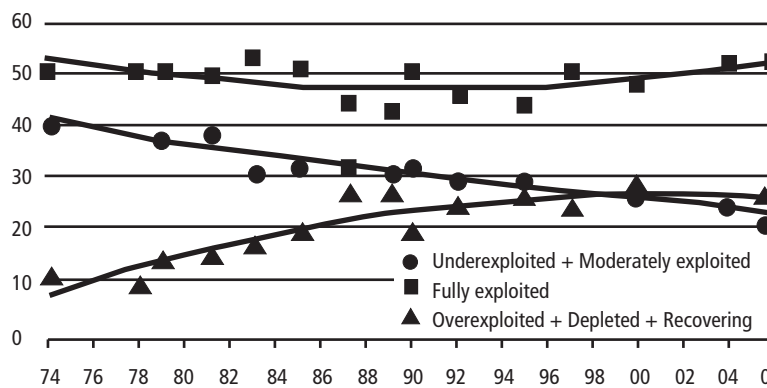
which fishing behaviour, conservation objectives, and commercial forces reinforce each other.

Nonetheless, the challenge is that there is not one style of rights-based system, to fit all fisheries. Rights-based management systems need to be designed to reflect and build upon the norms and governance structures that the participants and their communities consider legitimate and acceptable. Moreover, when rights-based systems are applied

to fisheries where there is overcapacity and overfishing, it is critical to address the impacts of transitioning to rationalized fisheries, the impacts on livelihoods, and the consolidation that will occur. In doing so, fishers and their communities will be able to sustainably generate the wealth that fisheries have to offer.

—from *Fisheries Management: Status and Challenges* by Ichiro Nomura, Assistant Director-General, Fisheries and Aquaculture Department, FAO

Percentage of fish stocks assessed



share systems for groups or communities (for example, community fishing quotas) or individuals (for example, individual share quota systems). In fisheries where determining total allowable catches may be problematic, the shares can be in the form of individual transferable effort units—sometimes described in terms of a particular part of the fishing gear or other technological units—as a proxy for shares of a total allowable catch (TAC). The drawback of this effort-based share-system is that it will create incentives for the fishermen to invest in technology ('technology creep') and require constant readjustment of the units to compensate for this. In fisheries where quantitative TACs are set, it is possible to develop ITQ and share quota systems, where the individual participants have clearly defined percentage-based shares. In this case, the system still needs to address

address bycatch concerns in a cost-effective manner. Finally, there is always the question of whether or not the system will encourage or discourage consolidation, particularly in fisheries where overcapacity is a problem.

For fisheries to be both biologically and commercially viable, it is necessary to promote fisheries management systems that are not only implemented transparently and collaboratively with all relevant stakeholders, but are also based on clearly defined and legally defensible user rights. Such systems are the only ones that

VERBATIM

But if we see, as marine scientists, boaters, tourists, fishermen, aquaculturists, petroleum geologists and wind farmers do, that the oceans are a complex mosaic of places, each a distinctive composite of natural processes and human activities, we realize that a "one-size-fits-all" placeless approach doesn't make sense.

—ELLIOTT A NORSE
MARINE CONSERVATION BIOLOGY INSTITUTE, REDMOND, WASHINGTON, US

WEBSITE

Arrest and Detention of Fishers

arrest-fishers.icsf.net

Many coastal communities around the world have to constantly deal with the problem of arrest and detention of fishworkers by States for unauthorized presence of small-scale fishing vessels in the territorial waters and exclusive economic zones (EEZ) of non-flag States. Such presence arises from a number of factors, ranging from a desire to access fishing grounds traditionally fished by non-flag State vessels, to depletion of fish stocks in waters of flag States, to enhanced capacities of the artisanal small-scale fishing fleets that spill over into waters of other coastal States. This problem, however, needs

context-specific solutions that will protect the human rights of fishworkers.

This site collates information resources for 18 different countries on the arrest and detention of fishers. It draws from the SAMUDRA News Alerts, articles from *SAMUDRA Report* and *Yemaya* newsletter, books and journal articles, and from other audio-visual material. The site also provides details of important bilateral agreements between countries on traditional fishing grounds.

For more, please visit <http://arrest-fishers.icsf.net/icsf2006/jspFiles/arrest-fishers/index.jsp>

FLASHBACK

Fishermen's Rights

Filipino fishermen have suffered a great deal on Taiwanese boats. Living conditions on those boats were denounced at the international seminar held in Manila last February. All over the world, unknown fishermen undergo the same or worse treatment and have no way to defend their basic rights. International agencies and governments do little or nothing to solve these problems.

Industrial fleets have hurt small artisanal fishermen in numerous countries, either directly by fishing in their waters, or indirectly, by negotiating with governments to obtain larger fishing quotas. Many national organizations aspire to have a zone reserved for artisanal fishermen, and we can see the day when that right will be universally accepted as a norm.

We can see some signs on the horizon that allow us to hope for a better day for fishworkers who lack basic rights. Chile has promulgated a law for fishing and aquaculture, which provides for the participation of representatives



of fishermen's organizations in fishing councils. It also establishes a five-mile zone reserved for artisanal fishing, a fisheries development fund, and priority access to aquacultural concessions. Fishermen from Brazil, Ecuador, Mexico, Bolivia, Colombia, Senegal, the Philippines, India, Norway, France and other countries are active in their organizations to achieve better living and working conditions.

This progress marks the beginning of a long and difficult road that fishermen's organizations will have to travel to ensure that their members are respected as human beings and can defend their sources of work threatened by pollution and plunder. Fishermen and fishworkers of the entire world should raise their voices to make room for the participation of women and demand from their governments reserved fishing areas. Credit and technical assistance should be channelled through projects that are elaborated with the active participation of fishermen themselves at every step of the process.

—from the Editorial in *SAMUDRA Report* No. 4, May 1991

BOOKSHELF

Trading in the Arabian Seas

THE ARABIAN SEAS: THE INDIAN OCEAN WORLD OF THE SEVENTEENTH CENTURY. R J Barendse, Vision Books, New Delhi, India. pp 588. 2002. ISBN 81-7094-518-6

This book, which began as a doctoral dissertation, focuses on the trading centres of the Arabian Sea, which Barendse designates "an archipelago of towns" populated by traders, mariners and fishermen living within autonomous communities that linked the various coastal areas." He

sees this maritime region as constituting an "Indian Ocean World". His time period is 1640–1700, "the age of Dutch predominance in the waters of the Indian Ocean, and in a broader sense the era of the great monopoly companies." Two of the book's major themes are the competition among the great European trading enterprises and the eventual emerging superiority in trade of the Europeans over the indigenous traders.

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ANNOUNCEMENTS

MEETING

COFI 28th Session Committee on Fisheries (COFI), 2-6 March 2009 Food and Agriculture Organization of the United Nations (FAO), Rome, Italy

COFI, a subsidiary body of the FAO Council, was established by the FAO Conference at its Thirteenth Session in 1965.

The Committee presently constitutes the only global inter-governmental forum where major international fisheries and aquaculture problems

and issues are examined and recommendations addressed to governments, regional fishery bodies, NGOs, fishworkers, FAO and international community, periodically on a world-wide basis.

COFI has also been used as a forum in which global agreements and non-binding instruments were negotiated.

For more information, please contact Ndiaga Gueye at ndiaga.gueye@fao.org



JOURNALS

Development, Vol. 51, No. 2. June 2008: Gender and Fisheries

Development is the flagship journal of the Society for International Development (SID, www.sidint.org). This issue focuses on the gender dimensions of fisheries, which provide rich ground for perspectives on development policy and community-based strategies for livelihoods, gender and social justice. The issue focuses on gender and fisheries in relation to inland and coastal resource management and aquaculture; and models for successful fishing/fish farming families/communities.

CONFERENCE

Poznan Climate Change Conference, 1-12 December 2008, Poznan, Poland

The United Nations Climate Change Conference in Poznan will bring together representatives of more than 180 countries, as well as observers from intergovernmental and non-governmental organizations and the media, for a series of UN events. These formal events will deliberate on a wide range of topics and agenda items, with a major focus being the post-2012 period, when the Kyoto Protocol's first commitment period expires.



Endquote

*The world below the brine,
Forests at the bottom of the sea, the branches and leaves,
Sea-lettuce, vast lichens, strange flowers and seeds, the thick tangle openings,
and pink turf,
Different colors, pale gray and green, purple, white, and gold, the play of light through
the water,
Dumb swimmers there among the rocks, coral, gluten, grass, rushes, and the aliment of
the swimmers,
Sluggish existences grazing there suspended, or slowly crawling close to the bottom,
The sperm-whale at the surface blowing air and spray, or disporting with his flukes,
The leaden-eyed shark, the walrus, the turtle, the hairy sea-leopard, and the sting-ray,
Passions there, wars, pursuits, tribes, sight in those ocean-depths, breathing that thick-
breathing air, as so many do,
The change thence to the sight here, and to the subtle air breathed by beings like us who
walk this sphere,
The change onward from ours to that of beings who walk other spheres.*

— *The World below the Brine* by Walt Whitman

