

ASIA WORKSHOP:
IYAFA 2022-Celebrating Sustainable and Equitable Small-scale Fisheries

Session 1: Access for small-scale fishing communities to resources

In the context of fisheries, the word ‘access’ may refer to the right or an opportunity to benefit from or use a living resource, or to benefit from or use a territory associated with the lives and livelihoods of fishing communities.

It may be ‘open access’ when the opportunity to benefit from or use a marine or inland fishery resource is not based on any legal or institutional framework, including the writ of a traditional or customary institution.

Access, on the other hand, may become a ‘tenure right’ when it is based on an institutional framework (traditional, customary or formal law) that grants and protects rights to benefit from or use land and fishery resources—most often at an individual or a collective level.

Consistent with the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT), tenure systems are meant to define and regulate tenure rights, especially how men and women fishers and fishworkers along the value chain gain rights to land, water or living aquatic resources, and determine who can use these resources, for how long and under what circumstances. Under rights and responsibilities related to tenure, VGGT seeks to ensure responsible governance of tenure, because fisheries, along with land and forests, are deemed central to the realization of human rights, food security, poverty eradication, sustainable livelihoods, social stability, housing security, and rural development (paragraph 4.1).

Elements of tenure rights in the context of capture fishing may include: rights of an individual or a community to use permitted craft (whether mechanized or not) and gear (e.g., stationary, encircling, towed or non-towed) in designated waters/areas to target specific resources within a stipulated time frame. This may be based on unwritten customs or local community codes of conduct; rules of cooperatives or associations; rules of the State; or licences/permits. While some elements of tenure rights are well developed in certain geographic contexts, others are poorly developed and need to become effective rights to become part of coherent whole.

In this context, it may be noted that the Sustainable Development Goal (SDG) 14b—“provide access for small-scale artisanal fishers to marine resources and markets”—partly resonates the significance of tenure rights in the marine context.

Tenure right to land may include the right to temporary or permanent possession of land at least for housing and other amenities, for the conduct of fishing, fish processing and marketing, and for the welfare of fishing communities.

Following the Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication (the SSF Guidelines), tenure rights may include the State granting preferential access of small-scale fisheries to fish in waters under

national jurisdiction through measures such as the creation and enforcement of exclusive zones for small-scale fisheries, especially to benefit vulnerable groups.

Although tenure rights to land and adjacent water bodies are of immense interest to shore-based or riparian owner-operators and their families, current tenure arrangements dealing with marine and inland fisheries resources, as well as coastal and riparian areas, are grossly inadequate to meet external threats, and are yet to be fully developed to function as a “system” to protect and defend the tenure rights of artisanal small-scale fishing communities in most places. This is a challenge that remains to be addressed.

Questions for Group Discussion

1. Do you enjoy tenure rights, individually and collectively, to housing and other land resources needed for your activities along the fisheries value chain? How can these rights be made more equitable and secure for both men and women?
2. Do you enjoy tenure rights to fishery resources, to the coast and riparian areas for men and women fishers and fish processors? Are they formal rights or traditional/indigenous/customary rights? Do tenure rights, for example, recognize the role of small-scale fishing communities to restore, conserve, protect and co-manage local aquatic and coastal ecosystems?
3. What kind of threats are facing fishing communities related to their access to land or water bodies? How are the tenure rights able to withstand and overcome these threats?
4. Are there cases of arbitrary eviction and termination of tenure rights of small-scale fishing communities to land and water bodies?
5. Are there initiatives to restore access to traditional fishing grounds and coastal lands for small-scale fishing communities who have been displaced by natural disasters or conflicts?
6. Are there meaningful consultations with small-scale fishing communities prior to the implementation of large-scale development projects? Do social, economic and environmental impact studies report on the results of such consultations?
7. Are there effective mechanisms to resolve disputes over tenure rights and to ensure availability of remedies such as restitution, indemnity, just compensation and reparation?