

Human rights and legal empowerment in small-scale fisheries

Based on work by Margaret Vidar, Rolf Willmann, Lena Westlund and Thomas McInerney

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Why a human rights-based approach to development?

Intrinsic value

Based on universal values
Universal legal standards for a life with dignity

Instrumental to development strategies

Addresses power inequalities and discrimination
Deals with weaknesses in accountability systems
Objective framework to manage conflicts and seek redress

Institutional reasons (UN comparative advantage)

Impartiality to deal with sensitive issues
Holistic analysis and integral responses to problems

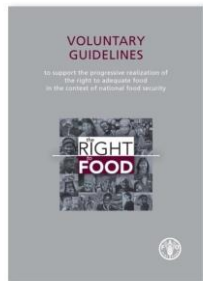
Source <http://hrbportal.org/common-learning-package-on-hrba><http://hrbportal.org/common-learning-package-on-hrba>

Human rights-based approach (HRBA)

HRBA promotes social transformation by empowering people to exercise their “voice” and “agency” to influence the processes of change

A human rights approach demands that we pay special attention to fisheries in terms of food security and basic livelihoods.

Human Rights in Food-Security related instruments



Right To Food Guidelines

Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests





UN Special Rapporteur on the Right To Food- Olivier De Schutter

- Report to the 67th Session of the General Assembly on the key role of fisheries (especially SSF) on the realization of the right to food
- “...ensure the progressive realization of the right to food, noting that pursuing a human rights approach is critical to achieving sustainable development in the fisheries sector”

http://www.srfood.org/images/stories/pdf/officialreports/20121030_fish_en.pdf



Implementation strategies

Following

- Address overexploitation
- Support empowerment through social inclusion and capacity building
- Integrate rights of fishers to an adequate livelihood as expanded approach of fisheries management
- Support improvements in broader governance context (i.e. access to justice and mechanisms)
- Integrate fisheries policies into wider poverty reduction policies and programs

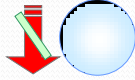
(Allison et al 2011)

Strengthened by:

- Collective action as means for empowerment
- Legal empowerment

State obligations applied to small scale fisheries

OBLIGATION TO RESPECT



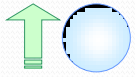
A State cannot reallocate fishing rights away from small scale fishers if this results in preventing them from fishing for their food and basic livelihoods.

OBLIGATION TO PROTECT



The State must act to protect small scale fishing rights so as to prevent third parties (individuals, groups, enterprises and other entities) from illegally interfering with their fishing rights and thus deprive them of the right to food.

OBLIGATION TO FULFIL



The State must create conditions allowing for the effective realisation of the right to food, e.g. enabling small scale fishers to continue fishing.

Human rights principles



Participation

Accountability

Non Discrimination

Transparency

Human Dignity

Empowerment

Rule of Law - Recourse



Participation

- Free, full, meaningful
- Policy and programme design, delivery, monitoring
- Culturally sensitive so men, women, young, old, different ethnic or social groups can and do participate

Stakeholder representation in fisheries management bodies

Small scale fisheries represented

Devolution of fisheries management to local communities



Accountability

- Decision-makers politically and legally accountable
- Public officials administratively accountable for administrative decisions
- Complaints accepted and clarity about where and how to complain

Fisheries legislation has clear provisions on institutional roles and responsibilities of different actors

Breaches of fisheries law are punished and deterred

Non discrimination – focus on vulnerable groups

- Discrimination - Race, Sex, Religion, Social Origin, Property, Birth, Other Status
 - Equal rights, opportunities and rewards
 - Special measures to redress effects of past discrimination
 - Recognizing the differing roles, needs and priorities of men and women
- Identify Physiologically, Socially, Economically Vulnerable Persons and Groups
- Different treatment for different groups

Fisheries legislation pays special attention to indigenous groups, women, minorities, protection of children

Differentiates between small scale and industrial fishing

Transparency

- Freedom of Information
- Entitlements and other rights
- Spending – budgets
- Rights allocations
- Recourse
- Accessible language

Clarity and communication of fisheries management measures, including consideration for traditional fishers

Quota and other fishing rights allocations are published



Human dignity

- Hunger is a violation of human dignity
- People should not have to beg for food entitlements
- Scavenging on rubbish heaps is undignified
- Receiving assistance should not be humiliating

Fisheries enforcement measures respect human dignity

Fish workers and fishers have dignified conditions of work



Empowerment

- People know they have human rights
- They know their entitlements to assistance & services
- They can hold officials accountable
- Application of other principles + education

Small scale fishers know their human and fishing rights and how to claim them.

Small scale fishers have access to general and specific education to help them improve their livelihoods

Case studies/ Recourse and Empowerment

- Uganda experience on accountability
- South Africa SSF vs. Marine living Resources Act
- *Erlingur Sveinn Haraldsson and Irn Snaevor Sveinsson v. Iceland*

General Provisions by Committees and Courts

- Have members of community been consulted in the decision making process (FPIC, effective participation, etc.)?
- Will they continue to benefit from the traditional economy?

Thank you!

- Universal Declaration of **Human Rights**
- International Covenant on **Civil and Political Rights**
- International Covenant on **Economic, Social and Cultural Rights**
- International Convention on the **Elimination of All Forms of Racial Discrimination**
- Convention on the **Elimination of All Forms of Discrimination against Women**
- Convention on the **Rights of the Child**
- International Convention on the **Protection of the Rights of All Migrant Workers and Members of Their Families**
- Declaration on the **Right to Development**
- ILO Declaration on Fundamental Principles and **Rights at Work**; and Work in Fishing Convention, many other conventions relating to above Covenants
- United Nations Declaration on the **Rights of Indigenous Peoples**
- ILO Convention 169 on **Indigenous and Tribal Peoples**

All human rights are universal, indivisible and interdependent and interrelated.

Vienna Declaration of Human Rights, para 5