



Exploring the human rights-based approach in the context of the implementation and monitoring of the SSF Guidelines

Workshop proceedings

24–26 October 2016
FAO, Rome, Italy



Caption: Fishermen along the Nile in Juba making fishing nets ; credit: ©FAO/Jose Cendon

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Preparation of this document

This document provides a summary of the presentations, discussions, conclusions and recommendations of the workshop on “Exploring the human rights-based approach in the context of the implementation and monitoring of the SSF Guidelines”, held at the FAO headquarters in Rome, Italy from 24 to 26 October 2016. The report was prepared by the organizers of the workshop from the Fisheries and Aquaculture Department and the FAO Legal Office.

While the report captures the main points discussed at the workshop, the detailed outcomes of the working groups are reproduced in Annex 5. The background paper in Annex 6 is a slightly updated version of the paper that was submitted to participants prior to the workshop.

Abstract

The SSF Guidelines are based on internationally accepted human rights standards and are to be interpreted and implemented in accordance with those standards. Their objectives are to be met through the promotion of a human rights-based approach (HRBA). This approach seeks to ensure the participation of small-scale fishing communities in non-discriminatory, transparent and accountable decision-making processes by putting particular emphasis on the needs of vulnerable and marginalized groups and developing countries. While the HRBA has been recognized by FAO as a principle that informs the design, implementation, monitoring and evaluation of programmes and projects, there is still limited experience in its practical application in the context of small-scale fisheries. It is therefore important to explore how this approach could support the implementation and monitoring of the SSF Guidelines.

Accordingly, the workshop on “Exploring the human rights-based approach in the context of the implementation and monitoring of the SSF Guidelines” explored what the human rights-based approach means within the context of small-scale fisheries in general and the thematic areas covered by the SSF Guidelines in particular. It discussed what the HRBA entails in terms of the conduct of the various state and non-state actors to whom the SSF Guidelines are addressed as well as the needs of the different stakeholders in the various policy areas, with a view to developing guidance materials for the application of the HRBA in the implementation and monitoring of the SSF Guidelines.

Thirty-two external and FAO staff discussed various thematic aspects of the SSF Guidelines in this respect, and agreed that activities that are geared towards implementing the SSF Guidelines should mainstream the HRBA, while the implementation of the approach in the SSF sector should be continuously explored and case studies and supporting guidance materials should be developed.

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Sincere thanks are due to the members of the FAO SSF Task Force for their support in the preparations for the workshop.

The organizers give a special thanks to the chairpersons of the workshop sessions, the presenters, the facilitators and rapporteurs of the working groups, and all workshop participants for their active participation in the discussions.

The financial support for this workshop was provided by the Norwegian Ministry of Foreign Affairs through the Technical Assistance Project “Enhancing the contribution of small-scale fisheries to food security and sustainable livelihoods through better policies, strategies and initiatives”, under the FAO Umbrella Programme for the Promotion and Application of the SSF Guidelines. The support is greatly appreciated.

Abbreviations and acronyms

BMU	Beach Management Unit
CANARI	Caribbean Natural Resources Institute
CBO	Community-based organization
CCRF	Code of Conduct for Responsible Fisheries
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
COFI	Committee on Fisheries (FAO)
CP	Civil and political (rights)
CRC	Convention on the Rights of the Child
CSO	Civil society organization
CSR	Corporate social responsibility
EAF	Ecosystem approach to fisheries
ESC	Economic, social and cultural (rights)
FAO	Food and Agriculture Organization of the United Nations
FIP	Fishery improvement project
FPIC	Free, prior and informed consent
HRBA	Human rights-based approach
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICSF	International Collective in Support of Fishworkers
IFAD	International Fund for Agricultural Development
ILO	International Labour Organization
IMO	International Maritime Organization
IPC	International Planning Committee
ITQ	Individual transferable quota
IUU	Illegal, unreported and unregulated (fishing)
MPA	Marine protected area
MSC	Marine Stewardship Council
NCPC	National Coastal Protection Campaign
NFF	National Fishworker Forum
NGO	Non-governmental Organization
NHRI	National human rights institution
OHCHR	Office of the United Nations High Commissioner for Human Rights

OSH	Occupational safety and health
Right to Food Guidelines	Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security
SDGs	Sustainable Development Goals
SFP	Sustainable Fisheries Partnership
SSF	Small-scale fisheries
TURFs	Territorial use rights fisheries
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNDP	United Nations Development Programme
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
VGGT	Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security
WFF	World Forum of Fish Harvesters and Fishworkers
WFFP	World Forum of Fisher Peoples

Executive summary

The workshop on “Exploring the human rights-based approach in the context of the implementation and monitoring of the SSF Guidelines” was held at the FAO headquarters in Rome, Italy from 24 to 26 October 2016. The workshop was attended by a total of 32 external experts from governments, fisherfolk organizations, civil society organizations (CSOs), Non-governmental Organizations (NGOs), intergovernmental and regional organizations, research institutions, academia, and other relevant non-state actors as well as FAO staff.

The SSF Guidelines are based on internationally accepted human rights standards and are to be interpreted and implemented in accordance with those standards. Their objectives are to be met through the promotion of a human rights-based approach (HRBA). This approach seeks to ensure the participation of small-scale fishing communities in non-discriminatory, transparent and accountable decision-making processes by putting particular emphasis on the needs of vulnerable and marginalized groups and developing countries. While the HRBA has been recognized by FAO as a principle that informs the design, implementation, monitoring and evaluation of programmes and projects,¹ there is still limited experience in its practical application in the context of small-scale fisheries (SSF). It is therefore important to explore how the approach could support the implementation and monitoring of the SSF Guidelines.

Accordingly, a background paper on the subject was prepared and circulated ahead of the above-mentioned workshop, which was held over three days in a format that featured thematic plenary presentations, plenary discussions and working group sessions. The workshop aims were as follows:

1. Exploring what the human rights-based approach means within the context of small-scale fisheries in general and the thematic areas covered by the SSF Guidelines in particular;
2. Discussing what the HRBA entails in terms of the conduct of the various state and non-state actors to whom the SSF Guidelines are addressed; and
3. Understanding the needs of the different stakeholders in the various policy areas with a view to developing guidance materials for the application of the HRBA when implementing and monitoring the SSF Guidelines.

The general and thematic expert presentations highlighted a number of conceptual, technical, theoretical and practical issues for the application of the HRBA in the implementation and monitoring of the SSF Guidelines. The presentations were followed by working group discussions on the various aspects of HRBA in the different thematic areas. The constructive discussions in the plenary as well as the working groups demonstrated the wide variety of experience of the participants. While the details of the workshop outcomes are to be found in the body of the report, the main points that came out of the various discussions include:

1. There is a need to recognize the diverse existing socio-legal and cultural norms and knowledge systems in the governance of tenure, and the importance of fair,

¹ FAO Guide to the Formulation of Country Programming Framework (2011); FAO Guide to the Project Cycle (rev. 2015).

transparent and participatory methodologies and processes of recognition of diverse legitimate tenure rights.

2. Small-scale fishers face serious challenges in terms of safety at work and other decent work standards, and the prevalence of informality in the SSF sector limits not only the security of tenure but also labour protection and access to social security. There is a need to go beyond fishery laws, which do not normally cover labour issues, to bring general human rights, labour and social security laws to bear on SSF.
3. Overregulation of fisheries management may be detrimental to SSF communities unless their human rights are taken into account, in the same way that non-regulation in areas such as labour and social security causes them serious problems. It is recommended that the UU (unreported and unregulated) part of IUU fishing should be considered differently in the SSF sector, which may not necessarily be regulated or may be regulated in a way that does not fully reflect the various rights and livelihoods systems.
4. The implementation of the HRBA in SSF requires strengthening political will and organizational capacity, thus ensuring intersectoral coordination and empowering small-scale fishers and their organizations to voice their needs, concerns and interests.
5. Power imbalances in the value chains should be dealt with by empowering those with currently weak bargaining positions in order to ensure more equitable benefits and income.
6. Disaster risks and climate change interventions should take human rights into account in the whole relief-development continuum and in both mitigation and adaptation measures for SSF communities. Approaches should be adapted to address sudden- and slow-onset disasters, climate change-induced migrations, and potential tensions between different right holders.
7. It is agreed that activities that are geared towards implementing the SSF Guidelines should mainstream the HRBA, while the implementation of the approach in the SSF sector should be continuously explored as case studies and supporting guidance materials are developed.

Presenters' biographies

Edward Allison: Mr Allison is a Professor of Marine and Environmental Affairs at the University of Washington, Seattle. His work spans research, policy and practice in both fisheries science and international development. He has worked on the coasts and inland waters of sub-Saharan Africa, Asia, Oceania, Latin America and Europe, focusing principally on the contribution of fisheries and aquaculture to food and nutrition security and to coastal livelihoods, the governance of small-scale fisheries and aquaculture production, and people's vulnerability and adaptation to climate change. He has authored or co-authored over 200 academic articles, agency reports and policy briefings, and contributed to many others.

Philippe Ankers: Mr Ankers is Senior Programme Adviser to the FAO Global Programme on Rural Poverty Reduction. Earlier, he served as chief of the Livestock Production Systems Branch and was director of Vétérinaires Sans Frontières-Suisse. He has over 20 years of experience in emergency programmes for livestock-dependent communities.

Anthony Charles: Mr Charles is a professor in the School of the Environment and the School of Business at Saint Mary's University in Halifax, Canada. He is a Pew Fellow in Marine Conservation, a member of the Fisheries Expert Group in the IUCN's Commission on Ecosystem Management, and a leader of the Community Conservation Research Network. He has served as an adviser to FAO, the OECD, the World Trade Organization, the Canadian Government, and many communities in Atlantic Canada. His research focuses on human dimensions and governance issues of small-scale fisheries, community-based conservation and management, sustainable coastal and marine systems, climate adaptation and ecosystem-based management. He has published widely on these issues.

Pedro Ferreiro: Mr Ferreiro is Deputy Director of the Buyer Engagement team at Sustainable Fisheries Partnership (SFP). His previous positions include fisheries observer and fisheries technician, as well as sustainable seafood sourcing and labelling adviser to Spanish small-scale fisheries and management authorities. He led the first Marine Stewardship Council (MSC) certification in Spanish waters, and has worked to improve small-scale fisheries marketing programmes.

Elena Finkbeiner: Ms Finkbeiner is a postdoctoral researcher at Stanford University's Hopkins Marine Station and an Early Career Fellow at the Center for Ocean Solutions. Her research interests in small-scale fisheries are centred around social resilience and how this manifests at both individual fisher and collective levels in response to environmental and social drivers of change; the political empowerment of fishers and fishing communities to be central actors in governance processes; the role of power and politics in narratives of overfishing; and the integration of human rights-based approaches in small-scale fisheries planning, policy, and practice.

Nicole Franz: Ms Franz holds a degree in Economics from the University of La Sapienza, Rome. She has worked in fisheries since 2003, including as consultant for the International Fund for Agricultural Development and as Fishery Planning Analyst for the Organisation for Economic Co-operation and Development. Since 2011, she has been Fishery Planning Analyst at FAO where she coordinates FAO support in relation to the implementation of the SSF Guidelines. She has a particular interest in policy processes, stakeholder empowerment and the promotion of the human rights-based approach in fisheries.

Svein Jentoft: Mr Jentoft is a social scientist and professor at the Norwegian College of Fishery Science, Arctic University of Norway. He has worked most of his career on issues related to small-scale fisheries both in Norway and internationally, and has published extensively about them. He is also a founding member of the Too Big to Ignore global network on small-scale fisheries research. Currently he is involved in the coordination of a research cluster focusing on the implementation of the SSF Guidelines.

Editrudith Lukanga: Ms Lukanga is the Co-president of the World Forum of Fish Harvesters and Fishworkers (WFF), an international umbrella organization that brings together small-scale fisher organizations for the establishment and upholding of fundamental human rights, social justice, and the culture of small-scale fish harvesters and fishworkers. She is involved in empowering communities and organizations to enhance their participation in local governance processes.

Marianne Manuel: Since 2011, Ms Manuel has been working with the Dakshin Foundation, an NGO that informs and advocates on coastal and marine conservation and natural resource management in India. Her work focuses on the impacts of coastal laws and policies on traditional fishing communities and the dynamics between traditional governance systems and the modern state. She is also the coordinator of the National Campaign for the Protection of Coasts, a national-level advocacy platform that works to further the human rights and welfare of coastal communities and the sustainable management of their resources.

Sebastian Mathew: As an adviser and as acting executive secretary of ICSF, Mr Mathew has had the opportunity to participate in the development of the SSF Guidelines. Earlier, he actively worked with the ILO on the Work in Fishing Convention, 2007 (C188), and has been working to promote its ratification. Mr Mathew has also worked with FAO and the ILO on child labour issues in fisheries.

Christopher Mbazira: Mr Mbazira is an Associate Professor at the School of Law, Makerere University, in Kampala, Uganda, and the Coordinator of the Public Interest Law Clinic (also at the School of Law). He has worked on the judicial enforcement of economic, social and cultural rights and promoted public interest litigation in this area. Mr Mbazira has also been part of several litigation efforts in Uganda. With respect to the right to food, he is part of a recently established FIAN International Seed Group in Uganda.

Mohammad Nuruzzaman: Mr Nuruzzaman has over 30 years of experience working for the Government of Bangladesh and various development agencies with multicultural teams both at national and regional levels in agriculture, fisheries, aquaculture and livestock projects. He has worked on gender assessments of value chain segments

looking at women's role and participation in production, management and decision-making for gender equality and women's empowerment.

Terrence Phillips: Mr Phillips is a Senior Technical Officer at the Caribbean Natural Resources Institute (CANARI), Trinidad and Tobago, with responsibility for the Coastal and Marine Livelihoods and Governance programme. Earlier he worked as a fisheries officer in the Fisheries Department of Guyana and as a programme manager, fisheries management and development, in the Caribbean Regional Fisheries Mechanism (CARICOM).

Watson Puiahi: Mr Puiahi is a founder of the local NGO called ILukim Sustainability Solomon Islands (ISSI), and has been Director since 2012. He has worked on issues of biodiversity, environment, climate change, indigenous peoples, human rights, and labour rights in fisheries. He is also part of a group of human right defenders in Solomon Islands.

Jacqueline Sunde: Ms Sunde is a postdoctoral fellow at the University of Cape Town in South Africa. She has worked with small-scale fishing communities for some years and is currently undertaking action research on the implementation of the SSF Guidelines and the SSF Policy in South Africa, with a particular focus on the recognition of customary systems of tenure.

Lena Westlund: Ms Westlund (MSc, University of Gothenburg, Sweden) has extensive experience in fisheries and development cooperation. She has lived and worked in-country, both in the long and short term, engaged in projects addressing poverty alleviation and food security in fishing communities. At the global level, she has been involved in policy and has contributed to several FAO publications, e.g. on the ecosystem approach to fisheries (EAF) and marine protected areas (MPAs). She contributed to the SSF Guidelines development process and now supports their implementation. Ms Westlund currently lives in Stockholm, Sweden, from where she continues to work as an FAO consultant.

Sisay Yeshanew: Mr Yeshanew is a Legal Consultant working with the Development Law branch of the FAO Legal Office. He works on issues of human rights, labour and tenure rights in the agriculture, forestry, fisheries and aquaculture sectors. He previously worked as a Senior Researcher in human rights and development at the Institute for Human Rights of Abo Akademi University in Finland and at the Centre for Social Studies of the University of Coimbra in Portugal.

Background to the workshop

The Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication (SSF Guidelines) were adopted in June 2014 by the 31st Session of the FAO Committee on Fisheries (COFI). The SSF Guidelines provide a comprehensive framework for the governance of small-scale fisheries and their contribution to food security and the eradication of poverty. They provide guidance to state and non-state actors on the development of policies, strategies and actions for resource management, governance of tenure, value chains and trade, social development and decent work, disaster risks and climate change, and gender equality.

The SSF Guidelines are based on internationally accepted human rights standards and are to be implemented in accordance with those standards. Their objectives are to be met through the promotion of a human rights-based approach (HRBA). This approach seeks to ensure the inclusion and participation of small-scale fisheries in transparent and accountable decision-making processes by putting particular emphasis on the needs of vulnerable and marginalized groups and developing countries. While the HRBA has been recognized by FAO as a principle that informs the design, implementation, monitoring and evaluation of programmes and projects, there is still limited experience in its practical application in the context of small-scale fisheries. It is therefore important to explore what HRBA means and entails in the context of the implementation and monitoring of the SSF Guidelines.

Under its Umbrella Programme for the Promotion and Application of the SSF Guidelines, FAO has undertaken to work on the application of the HRBA in small-scale fisheries. The planned work includes holding an exploratory workshop, mainstreaming HRBA in various activities, and developing indicators and guidance materials for the application of HRBA in the context of the SSF Guidelines.

The workshop on “Exploring the human rights-based approach in the context of the implementation and monitoring of the SSF Guidelines” was organized to bring together experts from a broad range of stakeholders, including Member States, UN agencies, CSOs, NGOs and academia, to explore what the HRBA entails for the conduct of various actors from normative, operational, and roles and responsibilities perspectives. The list of participants is attached in Annex 1.

The workshop was organized around the various thematic areas covered by the SSF Guidelines and the human rights principles and instruments they refer to. The three-day workshop conducted in English included both plenary presentations and discussions and working group sessions. The agenda of the workshop is attached in Annex 2.

Introductory session

Chair: Mr Rolf Willmann, Independent Expert

Mr Willmann introduced the first part of the introductory session as featuring a welcoming remark, procedural matters and introduction to the SSF Guidelines and to the concept of HRBA. He then invited the audience to the opening speech of Mr Árni Mathiesen, Assistant Director-General (ADG) of the FAO Fisheries and Aquaculture Department.

Mr Mathiesen welcomed the participants and stated that the workshop was convened to explore how the HRBA can and should be used in the context of securing sustainable small-scale fisheries. At a conceptual level, he warned against confusing the HRBA with the rights-based approach (RBA), which is a management model for sustainable use of fisheries resources. He described HRBA as a mechanism that seeks to ensure the inclusion and participation of small-scale fisheries actors in transparent and accountable decision-making processes, with an emphasis on marginalized and vulnerable groups. Underscoring that the application of HRBA in fisheries is fairly new, he invited the participants to share their expertise and experience with a view to providing evidence-based recommendations and guidance. The full text of the opening remarks is presented in Annex 3.

The opening remarks were followed by the participants' introductions.

OVERVIEW OF WORKSHOP OBJECTIVES, EXPECTED OUTPUTS AND *MODUS OPERANDI*

Ms Lena Westlund, FAO Consultant

Referencing the provisions of paragraph 1.2 of the SSF Guidelines that the objectives of the Guidelines should be “achieved through the promotion of a human rights-based approach”, Ms Westlund stated the importance of understanding what HRBA means for the implementation and monitoring of the SSF Guidelines. The workshop aims were accordingly defined as:

1. Exploring what the HRBA means within the context of small-scale fisheries in general and the thematic areas covered by the SSF Guidelines in particular;
2. Discussing what the HRBA entails in terms of the conduct of the various state and non-state actors to whom the SSF Guidelines are addressed; and
3. Understanding the needs of the different stakeholders in the various policy areas with a view to developing guidance materials for the application of the HRBA when implementing and monitoring the SSF Guidelines.

The expectations were to hear the insights of participants on required support and guidance to address the awareness and capacity gaps of different actors in relation to the application of the HRBA, and to better understand the role of FAO and other partners in this context. The working group session modalities were also introduced. The details are provided in the chapter on the thematic sessions.

INTRODUCTION TO THE VOLUNTARY GUIDELINES FOR SECURING SUSTAINABLE SMALL-SCALE FISHERIES IN THE CONTEXT OF FOOD SECURITY AND POVERTY ERADICATION (SSF GUIDELINES)

Ms Nicole Franz, Fishery Planning Analyst, FAO

The presentation provided an introductory glance at the SSF Guidelines. The SSF Guidelines are the first-ever negotiated international instrument entirely dedicated to SSF and represent a global consensus on principles and guidance for small-scale fisheries governance and development. The SSF Guidelines go beyond what is traditionally dealt with by fisheries administrations, bringing together social development and responsible fisheries.

The SSF Guidelines complement other international instruments, in particular the FAO Code of Conduct for Responsible Fisheries (CCRF), the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security (Right to Food Guidelines), and the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT), all of which have a common grounding in human rights principles.

The objectives of the SSF Guidelines involve food security and nutrition; equitable development and poverty eradication; responsible management of fisheries resources; economic, social and environmental sustainability; ecosystem-friendly and participatory policies; and public awareness and advancement of knowledge. These objectives should be achieved through the promotion of a HRBA, “by empowering small-scale fishing communities, including both men and women, to participate in decision-making processes, and to assume responsibilities for sustainable use of fishery resources, and placing emphasis on the needs of developing countries and for the benefit of vulnerable and marginalized groups”.

The SSF Guidelines are the result of a long period of inclusive processes and negotiations. The key milestones in the development of the Guidelines include the following:

- 2008: First Global Conference on Small-Scale Fisheries is held in Bangkok, Thailand, for which the CSOs prepare a statement. The recommendations from the conference include the call for an international instrument on small-scale fisheries.
- 2009: 28th Session of the FAO Committee on Fisheries (COFI) expresses need for an international instrument on SSF.
- 2010: FAO facilitates three regional consultations on bringing together responsible fisheries and social development, including one for Asia and the Pacific.
- 2011: 29th Session of COFI recommends development of an international instrument on small-scale fisheries.
- 2011–2013: National, regional and international consultations, workshops and events involving over 4 000 stakeholders are held. The national-level consultations are organized primarily by CSOs, who therefore play a major role in shaping the structure and content of the SSF Guidelines.
- May 2013 to Feb 2014: A Technical Consultation is held in FAO to negotiate the text of the SSF Guidelines, with the participation of states’ delegations, regional organizations, CSOs and other observers.
- 2014: 31st Session of COFI endorses the SSF Guidelines.

The SSF Guidelines are divided into three main parts. The introduction (Part 1) sets out the objectives, nature and scope, the guiding principles, and the relationship with other international instruments. The guiding principles of the SSF Guidelines include non-discrimination; respect of cultures; social and economic viability; gender equality and equity; equity and equality; transparency; rule of law; consultation and participation; accountability; economic, social and environmental sustainability; holistic and integrated approaches; and social responsibility and feasibility.

Part 2 of the SSF Guidelines is entitled “Responsible fisheries and sustainable development” and represents the thematic heart of the SSF Guidelines. It contains chapters dealing with:

- Sustainable resource utilization/stewardship and secure rights to fishery resources and land, and the ability of SSF communities to benefit from them;
- Social development dimension of SSF livelihoods (e.g. equitable access to social services), employment and incomes, and fair and decent working conditions;
- The post-harvest sector and trade, and consideration of the whole value chain;
- The importance of gender and the need to promote equality and equity;
- Vulnerabilities of small-scale fishing communities in the context of disaster risks and climate change.

Part 3 of the SSF Guidelines focuses on “ensuring an enabling environment and supporting implementation”, as the small-scale fisheries sector cannot be looked at in isolation. It is embedded in a wider policy and institutional context and requires policy coherence and interinstitutional collaboration and coordination. Equally important are information, research and communication to better understand the sector, support decision-making, and to ensure transparency and accountability. The SSF Guidelines also acknowledge the often-encountered lack of capabilities and capacities, in both government administrations and communities, and provide guidance for capacity development measures. Finally, the SSF Guidelines call for monitoring measures that allow feedback into planning and policy-making processes.

The SSF Guidelines place small-scale fisheries in the context of human rights and set out a framework for action for all stakeholders. They aim at empowering SSF communities to participate in decision-making processes and to assume responsibilities for the sustainable use of fisheries resources, with an emphasis on vulnerable and marginalized groups.

INTRODUCTION TO THE HUMAN RIGHTS-BASED APPROACH

Mr Sisay Yesheanew, FAO Legal Office

The presentation provided an overview of the background paper entitled “Exploring the human rights-based approach to the implementation of the Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication”, which was circulated among the participants ahead of the workshop (see Annex 6). Mr Yesheanew identified the right to adequate food, gender equality, decent work, tenure rights, indigenous peoples’ rights, and procedural rights (such as those relating to participation, non-discrimination and accountability) as the human rights dimensions of the work of FAO, which are based on normative, programming and strategic frameworks developed by the Organization. The normative, interpretive and methodological relevance of human rights in the SSF Guidelines was highlighted. According to the Guidelines, the objectives that include supporting the progressive realization of the right to adequate food and contributing to the equitable

and participatory socio-economic development of small-scale fishing communities are to be achieved through the promotion of a HRBA.

Human rights are defined as values of human dignity that aim to protect and advance the liberty, equality and well-being of individuals and/or groups of people. They are composed of both entitlements and duties, including the conservation-related responsibilities of SSF communities.

The various components of human rights and the core international human rights instruments are highlighted in the background paper, and the universality, indivisibility, interdependence and interrelatedness of human rights are underlined. The applicability of such rights as the right to property, the right to culture, and the collective rights claims of fishing communities is demonstrated. The paper acknowledges that human rights are compatible with resource limitations, policy priorities and tradeoffs, but that such issues should be settled through progressive steps and inclusive and equitable processes that do not create or exacerbate unequal or discriminatory relationships.

The HRBA grew out of a conceptual paradigm shift in the understanding of development as a multidimensional improvement in people's capability to lead lives that they value. In the context of development cooperation, it developed as an approach that could remedy the deficiencies in the charity and needs-based approaches that preceded it, by working towards systemic changes and addressing the root causes of poverty, including discrimination, marginalization, exploitation and abuse. Various UN agencies, programmes and funds, and other donor agencies, have been implementing the HRBA to differing degrees. According to the 2003 Common Understanding on the Human Rights-Based Approach to Development Coordination, the realization of human rights should be a goal of all programmes, guiding cooperation and programming at all phases, and development cooperation should contribute to the capacity of duty bearers to meet their obligations and of right holders to claim their rights. The HRBA is therefore defined as a conceptual framework of human development that is normatively based on international human rights standards and operationally directed at promoting and protecting human rights. Implicit in the HRBA is a focus on vulnerable and marginalized groups.

The HRBA is analysed and implemented using three "lenses": (1) the achievement of human rights as the overall objective or guiding framework of development and/or emergency-related initiatives; (2) respecting the human rights principles of participation, accountability, non-discrimination, transparency, human dignity, empowerment and the rule of law (PANTHER) in the design, implementation, monitoring and evaluation of programmes or projects, in order to improve targeting, efficiency, effectiveness and quality of outcomes; (3) the promotion of rights, duties, responsibilities and accountability mechanisms by developing the capacity of duty bearers to meet their obligations and of right holders to claim their rights. Through these lenses, the rights protected in the SSF Guidelines can be seen to include legitimate tenure rights; rights against arbitrary forced eviction; the right to an adequate standard of living; labour and social security rights; and the rights of women, indigenous peoples and other vulnerable and marginalized groups. The guiding principles of the SSF Guidelines coincide with human rights principles (referred to in FAO by the mnemonic PANTHER principles) that require the non-discriminatory and informed participation of SSF communities, in transparent and rules-based decision-making processes, that are based on the recognition of their dignity and on the accountability of all actors involved. These include participation and consultation, accountability, non-discrimination and equality, transparency, human dignity, empowerment, rule of law,

respect of cultures, social responsibility, and feasibility and socio-economic viability. The focus of HRBA would be to enable SSF fishers, fishworkers, communities and their organizations to claim their rights and to enable states, the private sector, and intergovernmental organizations to carry out their duties. Traditional and customary authorities, professional organizations, and CSOs are considered to be “moral duty bearers”, whereas NGOs and research and academic institutions create an interface between various actors and play a catalytic role.

Underscoring that the implementation of the SSF Guidelines requires multifaceted and multi-layered actions by various actors, the presentation highlighted the aspects of the HRBA within a given programme or project cycle. Context analysis identifies and analyses human rights problems to be addressed and the needs, interests, roles, responsibilities and capacities of pertinent stakeholders. Programme design sets the objectives mainly in terms of addressing the structural causes of the problems, identifying the substantive and/or procedural rights to be achieved, and defining activities in terms of the awareness and capacity of right holders and duty bearers. In terms of implementation, HRBA provides guidance to state/non-state actors, places focus on the vulnerable and marginalized, and uses the PANTHER principles in operational procedures. Monitoring and evaluation assesses performance against planned goals, activities, implementation standards and results – looking at the compliance of programme processes with human rights principles and the changes in the conduct and behaviour of right holders and duty bearers.

The presentation finished by shedding light on some challenges that relate to the political, social, cultural, geographic and organizational context in which the SSF Guidelines are applied. Addressing power asymmetries through the HRBA involves challenging established practices, attitudes, and privileges and entrenched interests. Claiming rights may create tensions. Thus it would require painstaking negotiations, supportive incentive structures and long-term commitment. HRBA should be applied in nuanced, progressive and context-sensitive ways. The imperatives of adding new perspectives and reorienting some activities could require tailored staff training in HRBA and intersectoral collaboration. Organizational support and resource commitments for HRBA would enhance its role as one among other factors that support SSF development and governance.

BRAINSTORMING: THE HUMAN RIGHTS GUIDING PRINCIPLES OF THE SSF GUIDELINES

After the introductory presentations, the participants were asked to randomly divide into groups of approximately three and invited to discuss one of the following principles:

1. Participation and consultation, including free, prior and informed consent (FPIC)
2. Accountability, including monitoring
3. Non-discrimination and equality, including gender equality
4. Transparency
5. Human dignity
6. Empowerment
7. Rule of law
8. Respect of cultures
9. Social responsibility
10. Feasibility and social and economic viability

They were then asked to identify one practical example (i.e. good practice) of when and how the principle has been implemented, and one main (i.e. the most important) challenge in applying the principle. Feedback was provided after two presentations on actors' views regarding HRBA in SSF.

During the reporting back from the brainstorming discussions, all groups identified interesting practical examples and challenges in relation to the guiding principles. For example, the group that discussed the principle of participation and consultation described how the Tagbanwa people of the Philippines asserted their rights over their ancestral territories and benefited from tourism by making use of their right to FPIC under the Indigenous Peoples Rights Act of 1997. The accountability group gave the example of how a court in South Africa played a role in the initiation of a small-scale fisheries policy process that aimed to address food security needs and human rights. The non-discrimination and gender equality group pointed out the work of an NGO in the Gulf of California that empowered women to start their own fishing cooperatives and access markets and credit. The group on human dignity presented the example of “fish for sex” prevalent in the Lake Victoria areas and its association with the spread of HIV/AIDS. The groups further identified various challenges, including those emanating from competing livelihoods, policy implementation, and cultural and religious norms or practices. The small-group exercises served as starters for the more substantive discussions that ensued.

A CSO PERSPECTIVE ON HUMAN RIGHTS ISSUES IN THE IMPLEMENTATION OF THE SSF GUIDELINES

Mr Sebastian Mathew, ICSF

The presentation drew on several meetings organized by CSOs since 2014 on implementing the SSF Guidelines, especially the IFAD-funded series of capacity-building workshops in Asia, Africa and Latin America. It highlighted issues of both concern and interest for CSOs, especially those related to promoting the HRBA to achieve the objectives of the SSF Guidelines. In this context, it drew attention to the role that national human rights institutions can play in realizing the human rights of relatively powerless, small-scale fishing communities within the larger human rights governance framework at the regional, national and subnational levels.

The importance attached in the SSF Guidelines to elements such as the HRBA, gender equality, policy coherence and the promotion of holistic and inclusive development strategies have been welcomed by CSOs. It is believed that these elements would assist in advancing the cause of legitimizing various forms of both formal and informal tenure rights of marine and inland fishing communities and indigenous peoples in several parts of the world. The HRBA would: (i) allow for linking activities along the fishery value chain to life and livelihood issues; (ii) help understand the roles of duty bearers and right holders and their relationships of power; (iii) help fishing communities and indigenous peoples to avoid being victims and to become active agents of change; and (iv) bolster social movements for greater recognition of these groups' rights to land and water. Seeking coherence across the HRBA, gender-sensitive approaches and ecosystem approaches in implementing the SSF Guidelines would bring greater emphasis on social development and would further bring necessary balance to the rights-based approach to fisheries conservation and management.

Drawing from the CSO meetings, human rights issues in the implementation of the SSF Guidelines that are of relevance to inland and marine fishing communities

include: low level of awareness on human rights among both duty bearers and right holders; deprivation of individual and group human rights; poor recognition of livelihood rights under the human right to water, especially in the context of inland fishing communities; denial of various informal and formal tenure rights of fishing communities and indigenous peoples; poor legal recognition of collective human rights; lack of legal empowerment to fight against human rights violations; plurality of agencies dealing with common human rights issues; inadequate national laws to protect human rights of migrant fishers; and lack of political will.

Several suggestions were made to address these issues. These included: reciprocal awareness raising on human rights of duty bearers and right holders; legal empowerment of fishing communities; recognition of fishery-based livelihood rights along with personal and domestic uses under the human right to water; recognition of formal and informal tenure rights of marine and inland fishing communities and indigenous peoples; improving governance mechanisms dealing with civil and political rights as well as economic, social and cultural rights of fishing communities and indigenous peoples; protecting human rights of migrant fishers within national legal frameworks; and strengthening political will at various levels.

Regarding the progressive realization of human rights, especially addressing the human rights challenges facing relatively less powerful small-scale fishing communities in rich and poor countries, national human rights institutions (NHRIs) – human rights commissions, women’s commissions, child rights commissions, indigenous peoples’ commissions, etc. – were identified as having a significant role to play. It was pointed out that in many countries, NHRI powers, functions and monitoring mechanisms can promote and protect the human rights of fishing communities. They can review international treaties and make recommendations to the government regarding their implementation. NHRIs can respond to collective rights violations, and may respond to complaints of violations of human rights or abetment, negligence or dereliction of duties in the prevention of such violations by public servants. They can seek leave to intervene in any proceedings concerning human rights before judicial organs. NHRIs are expected to spread human rights awareness in society and can undertake and promote research in the field of human rights. In addition, they are expected to encourage the efforts of NGOs/CSOs working in the field of human rights. NHRIs can take up the arrest and detention of fishers in neighbouring countries with the respective ministry of foreign affairs which, in turn, can take up such issues with its counterparts in other countries. Therefore, it was proposed that the capacity of NHRIs across the world be built up, also to protect and promote the human rights of marine and inland fishing communities.

It was recognized that CSOs have a role to play in the implementation of the SSF Guidelines, especially in regard to awareness raising and capacity building for the protection and promotion of the human rights of marine and inland fishing communities, and also for strengthening governance mechanisms. CSOs at the international level can collaborate with FAO, the OHCHR and the ILO towards promoting the human rights of small-scale fishing communities. CSOs at the national level can, in collaboration with NHRIs, for example, seek coordination and coherence across ministries and departments that have duties relating to the rights to food, health, education, housing and decent work in order to realize the human rights of fishing communities and indigenous peoples. CSOs could also collaborate in the development of indicators for the progressive realization of human rights of fishing communities (e.g. educational levels, access to health services, quality of life, human rights violations, women’s participation, and availability of social protection).

ROLES OF DIFFERENT PLAYERS IN THE APPLICATION OF THE HUMAN RIGHTS-BASED APPROACH IN SSF

Mr Svein Jentoft, Arctic University of Norway

In this presentation, Mr Jentoft argued for the need to build partnership arrangements for the implementation of the SSF Guidelines. He noted, however, that one would need to be careful about how small-scale fisheries are secured and represented within such arrangements, because they come from a position as the underdog. The presentation ended with a few points regarding the contribution from the academic community.

Apart from some fairly recent academic papers on the HRBA in fisheries (by Anthony Charles and Edward Allison for instance), the SSF Guidelines is the first document of a similar nature that talks about human rights in the context of small-scale fisheries or fisheries in general. The CCRF does not do it, for instance. The VGGT talks a lot about human rights, but mentions small-scale fisheries only briefly.

The HRBA is therefore a unique perspective on fisheries governance and management, with implications that are interesting and important. Mr Jentoft ventured that some would perhaps argue that this goes without saying: people in fisheries enjoy the same universal human rights as anyone else. Nonetheless, it is still sometimes important to state the obvious as a reminder, like when Hillary Clinton stated at the World Women's Conference in 1995 that "women's rights are human rights."

However, the idea that fishing rights regimes should undergo a human rights litmus test is not obvious. There are those who feel that fisheries are too mundane for such lofty ideals and principles, and who are more comfortable talking about a "rights-based approach" than a "human rights-based approach". But despite their similarities in name, the two concepts are different and potentially in conflict.

The concept of the "rights-based approach" does not appear in the SSF Guidelines. There is no longer a need to discuss the relevance of human rights in the context of fisheries; with the endorsement of the SSF Guidelines, the issue now is how to implement them. Notably, human rights are also well beyond fisheries and tenure rights.

The HRBA is foundational, a guiding framework, which is meant to penetrate the entire Guidelines document. As long as there is consistency between the human rights principles that are stated initially and the more substantive paragraphs that follow, implementing what the latter paragraphs say would automatically mean that one is also implementing the HRBA. Therefore, as Mr Jentoft clarified for the subsequent working groups, there would be little reason to discuss the implementation of the HRBA separately, detached from the implementation of the entire programme that is the SSF Guidelines.

Given that each paragraph is phrased in language that is fairly general, and which therefore must be operationalized to fit each context, there is a risk that the implementation may still be inconsistent with the HRBA that is mandated by the SSF Guidelines. In other words, the question is not so much whether there is consistency between the HRBA as a guiding framework and what is stated in the rest of the SSF Guidelines, but whether there is consistency between the HRBA required in the SSF Guidelines and what is actually proposed and implemented (or not) in concrete situations.

Thus the discussions on the SSF Guidelines have not stopped with the endorsement of COFI; they will continue as the Guidelines hit the ground, because they entail "wicked problems" that do not go away. The problems that the SSF Guidelines address will not be solved once and for all. Individuals who have risen out of poverty may easily

fall into it again, especially if they lack a regular supply of food. Wicked problems, being ethical problems, require political rather than technical solutions.

The SSF Guidelines speak to states and civil society, but they involve a broad set of players. They could perhaps be called stakeholders, who will vary according to which paragraph in the SSF Guidelines is being discussed. The word “stakeholder” suggests that there are groups within or outside small-scale fisheries who may have things to win or lose as a result of the SSF Guidelines. There is no reason to expect that these groups will sit still and passively witness their implementation. The word “players” suggests that they will act strategically and try to outsmart each other.

The SSF Guidelines arose from the lack of a level playing field. As observed in the preface of the SSF Guidelines, “Small-scale fishing communities also commonly suffer from unequal power relations. In many places, conflicts with large-scale fishing operations are an issue, and there is increasingly high interdependence or competition between small-scale fisheries and other sectors. These other sectors can often have stronger political or economic influence, and they include: tourism, aquaculture, agriculture, energy, mining, industry and infrastructure developments.”

These sectors have players because they are stakeholders, but they are not equally equipped and capable of securing their interests. It is not likely that they would yield, for instance, to the concept of “preferential treatment” mentioned in paragraph 5.4: “States should take appropriate measures to identify, record and respect legitimate tenure right holders and their rights. Local norms and practices, as well as customary or otherwise preferential access to fishery resources and land by small-scale fishing communities including indigenous peoples and ethnic minorities, should be recognized, respected and protected in ways that are consistent with international human rights law.”

Thus one should not be surprised if this and many other paragraphs in SSF Guidelines meet resistance when implemented in concrete playing fields. Even if the HRBA comes with an aura of righteousness and self-evidence, the practical application of the Guidelines may still be contested. Stakeholders may approve of its principles but disapprove of their application. As they tend to be opportunistic when it serves their interests, they will know how to spin things to show goodwill.

In terms of how to proceed, it must first be recognized that the SSF Guidelines are entering a playing field that in many instances looks like a minefield. They will have to engage stakeholders who may not be sympathetic once they become more familiar with the Guidelines. It would therefore be essential to bring stakeholders on board; they should be invited in. It is better to have them “inside the tent” than outside.

Co-optation is not necessarily a bad thing, especially when the cause is legitimate. The implementation of the SSF Guidelines would therefore require building platforms where stakeholders can argue about the HRBA and discuss its concrete implementation. There should be many meetings like the present workshop around the world; they should not be one-offs, and they should aim at building such partnerships. But, because of their underdog status, care must be taken in how small-scale fisheries are secured and represented within such arrangements.

The issue is more about governance than management, because it is not a technical issue. During the Technical Consultations on the SSF Guidelines, governance was a difficult concept for many delegates, and not just the semantics. Nevertheless, the governance concept survived – which will be useful for the implementation of the SSF Guidelines, as they will require the involvement of stakeholders beyond government, particularly small-scale fishworkers, who have urgent and legitimate stakes.

Government and civil society both have a role to play in building such platforms and ensuring that they remain level. They should not need FAO to do it for them, but they may still need a push. There should be an organization (either Human Rights Watch or something equivalent) to keep an eye on small-scale fisheries.

The academic community also has an important contribution to make, in many roles, including as watchdog. Most of all, the academic community should be a provider of researched-based knowledge. Since knowledge is power, this can help to level the playing field.

Mr Jentoft noted that he uses every opportunity to talk to his colleagues about the SSF Guidelines, suggesting that they should pay attention to how the Guidelines are received in their country. As for those social scientists who often complain that no one listens to them, he argued that they could hardly ask for more than the SSF Guidelines. He entreated them to get involved and use the opportunity to make a real difference. Following the implementation process globally, learning from successes and failures, would be an intriguing research endeavour.

After the presentations and discussion from the perspectives of actors in HRBA in SSF, the chair introduced presentations on the two cross-cutting issues of gender and food security, with particular country experiences from Bangladesh and Uganda, respectively.

A FOCUS ON GENDER IN SMALL-SCALE FISHERIES

Mr Mohammad Nuruzzaman, Independent Expert, Bangladesh

The presentation sought to show that small-scale fisheries play a very important role in the socio-economic development of Bangladesh, and that the role of women in that context is largely unexplored. Being a “riverine” country and low-lying in nature, about 50 percent of the country becomes submerged underwater almost every year during the rainy season. This flooding allows many people to get involved in amateur fishing, with about 10 percent of the population engaged in SSF as their means of livelihood. However, the role of women in SSF is often invisible because they are mainly involved in pre-harvest and post-harvest segments of fisheries without much recognition.

Although the open water fisheries resources are dwindling gradually, there are over 2 million fishers involved in Hilsha fisheries, which in turn provide for 10 million people. About 50 percent of the family members are female. According to the Department of Fisheries (DOF), about 800 000 and 516 000 fishers are involved in inland fisheries and marine fisheries, respectively. Family members including wives help the fishers in pre- and post-harvest activities usually not counted as economic activities. The artisanal fishery across the offshore sea area comprises 67 669 fishing boats that go fishing regularly with a minimum of five crew per boat. Families are taken care of by wives or women during the long absence of fishers in sea fishing.

Apart from fishers, there are about 400 000 to 500 000 shrimp collectors supplying seed to the shrimp farms, more than 50 percent of whom are women. About 50 000 to 60 000 workers are engaged in the shrimp processing industry, about 70 percent of whom are women. Among the 13.86 million fish farmers and 0.83 million shrimp farmers, there is a growing involvement of women in aquaculture, particularly where the aquaculture ponds are adjacent to households.

It was noted that Bangladesh has demonstrated consistent progress in fish production both from aquaculture and fisheries, and that the DOF had adopted some positive initiatives to help fishers’ livelihoods. Since fishing has lean and peak periods,

fishers need assistance during lean and ban periods. The registration of fishers and provision of ID cards that the DOF has started would be helpful in providing such assistance.

To combat river siltation and land accretion that reduces natural fish production, there have been programmes for habitat restoration, establishing fish sanctuaries, open water stocking, seasonal bans, gear restrictions, and awareness programmes to attract community support towards fishery management. The gender dimensions of government support include a lump sum grant of Tk50 000 in case of a fisher's death, alternative income-generation training for women fishers (e.g. in doll making, poultry, duck and goat rearing, group formation and microcredit support), community savings groups for women, and provision of matching funds against bank account savings across DOF project areas. Processing workers are also trained on labour rights, labour rules and in leadership and negotiation skills.

Despite the above-mentioned support, there is income insecurity during dry periods and seasonal bans, and less supply of shrimp for the seasonal shrimp workers. Families suffer from loss of nets and gear during enforcement measures and from imprisonment of fishers by mobile courts. Lack of market support has been a big problem for remote landing areas that are inaccessible by road.

The influence of non-fisher intermediaries and moneylenders tends to keep fishers debt-bonded. Apart from natural calamities, the lack of infrastructure such as roads, schools and hospitals affect small-scale fishing communities. Labour standards such as occupational safety and health issues are never looked at in the SSF sector, and there is no support provided in terms of personal protective equipment. Apart from these, there are problems such as human trafficking across the offshore areas and armed kidnapping of fishers for ransom.

Officials in the public sector tend to be “gender-blind” and follow top-down approaches in decision-making and in choosing interventions. There are also issues of good governance. For example, a sizable number of recipients (of ID/cash/food benefits) are said to be chosen from non-fishers based on pro-government political affiliations. Moreover, government support and CSO efforts are mostly project-based and lack sustainability.

A HUMAN RIGHTS-BASED APPROACH TO FOOD SECURITY AND NUTRITION IN SMALL-SCALE FISHERIES

Mr Christopher Mbazira, School of Law, Makerere University, Uganda

The presentation referred to ongoing research by the Ugandan FIAN International Seed Group, analysing the tension between legal regulation of fishing and the right to food of subsistence fishers in Uganda. It used a case study from two fishing sites to establish the extent to which the regulatory framework and other challenges have an impact on the right to food of subsistence fishing peoples.

The hypothesis for the aforementioned research is that subsistence fishing communities rely on fishing for their direct food needs and to earn income in order to meet other food and nutritional needs, as well as basic needs such as water, housing, health care and education. The research is reviewing the normative standards that define the right to food at the international and regional level, and within the national domestic legal system in Uganda as well. At the domestic level, specific attention is paid to the policies and laws governing fishing in Uganda, which are largely regulatory, and

how these affect the right to food for small-scale fishers. Preliminary findings indicate the following:

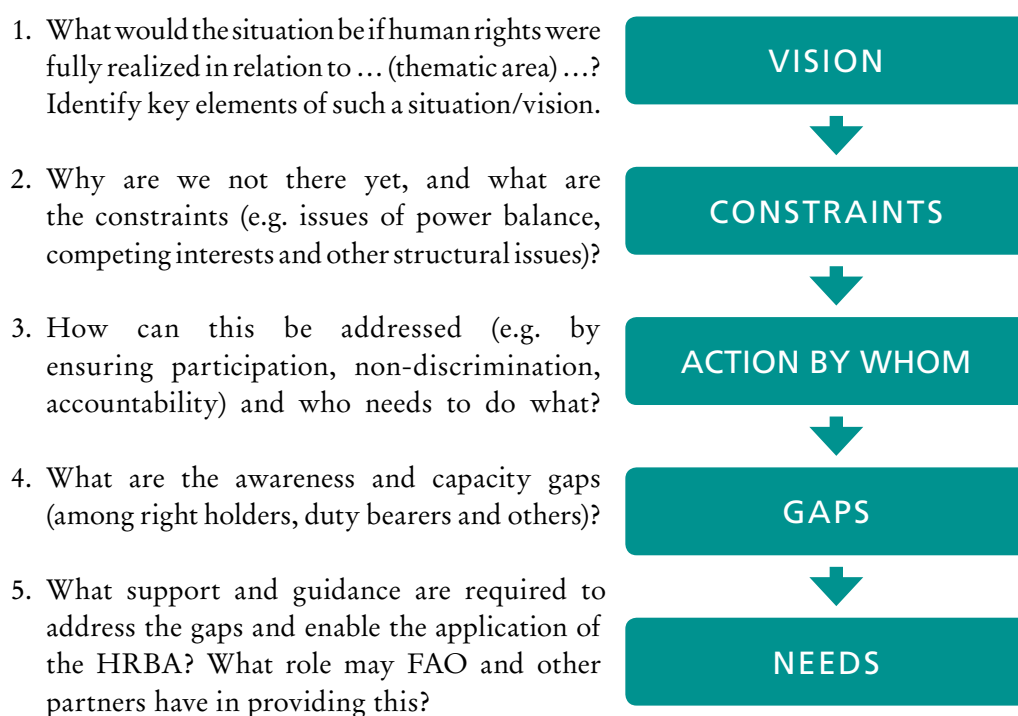
- The legal framework is largely concerned with conservation of fish resources as high foreign exchange earners; little or no attention is given to access and equity.
- At least on paper, there is to some extent a focus on participation in the management of small-scale fishing through Beach Management Units.
- The methods of fishing prescribed by the law are expensive and not affordable for small-scale fishers, which affects their access to fish, income and food.
- Land tenure challenges resulting in evictions and land grabbing adversely affect the right to food of communities.
- Communities face challenges in accessing services such as education and health care.
- There is a lack of disaster mitigation measures, such as management of fire disasters.

THEMATIC SESSIONS

From the second half of the afternoon on the first day, the workshop was organized into four thematic sessions organized along the thematic areas covered by the SSF Guidelines: Chapters 5, 6, 7 and 9. Gender was considered as a cross-cutting issue throughout. The subject areas of each session were as follows:

- Thematic Session 1: Governance of tenure in SSF and resources management (Chapter 5 of the SSF Guidelines)
- Thematic Session 2: Social development, employment and decent work (Chapter 6)
- Thematic Session 3: Value chains, post-harvest and trade (Chapter 7)
- Thematic Session 4: Disaster risk and climate change (Chapter 9)

For each thematic session, the chair made an overall introduction of the area and invited panellists to make illustrative presentations on specific aspects of the respective thematic areas. After plenary discussion on the presentations, participants were divided into three groups to discuss practical issues under each theme. The composition of the working groups remained the same throughout the four sessions in order to ensure continuity of the group discussions (see Annex 4). While the thematic focus of each working group changed, the questions to be addressed remained the same and are outlined below.



Each group was supported by two facilitators and a rapporteur to record the discussions. Each group also designated a presenter who reported the results of the working group discussion back to the plenary.

THEMATIC SESSION 1: HRBA in the context of responsible governance of tenure and resource management

Chair: Mr Michael Windfuhr, German Institute for Human Rights

The Chair introduced the session by presenting the main human rights elements of Chapter 5 of the SSF Guidelines entitled “Governance of tenure in small-scale fisheries and resource management” and also referring to the relevant provisions of the VGGT. He then invited three panellists to address the issues of collective tenure rights, indigenous peoples’ rights and resource management in small-scale fisheries, with reference to country-level experiences in South Africa, Solomon Islands and India, respectively.

COLLECTIVE CUSTOMARY TENURE RIGHTS TO AQUATIC RESOURCES AND LAND IN THE CONTEXT OF THE SSF GUIDELINES: EXPERIENCES FROM SOUTH AFRICA

Ms Jacqueline Sunde, University of Cape Town

The presentation provided an introduction to the recognition and protection of collective tenure rights within the context of the SSF Guidelines. It gave an overview of the diverse types of collective customary tenure that exist and highlighted the importance of understanding the status of these systems in any given jurisdiction in order for these rights to be recognized appropriately. Drawing on the struggles of several local communities in South Africa as well as key concerns raised by indigenous peoples and local communities in different jurisdictions, it highlighted some of the issues that need to be considered in the implementation of a human rights-based approach to ensure that these rights are respected and protected.

Internationally, there is growing recognition of the prevalence of collective customary tenure systems and the centrality of these tenure systems for the well-being and human rights of indigenous peoples and local small-scale fisheries communities. While it is not known what proportion of aquatic resources are governed collectively, it is estimated that 52 percent of the world’s lands are under some form of collective tenure. The SSF Guidelines recognize that resources may be owned and managed collectively and urge states to recognize collective systems of customary tenure as legitimate tenure systems. The recognition of collective human rights within international human rights instruments and international customary law underscores this reference to collective rights within the Guidelines.

In the collective customary tenure systems of communities in South Africa, tenure rights have their basis in the customary law of the community. They are embedded in the social relations of the community and as such are infused with the distinctive

ethical and philosophical principles underlying African customary law. Rights are nested and may be held at the individual, family or household, or communal level. In some instances there may be overlapping rights. Decision-making and conflict resolution mechanisms are vested at the local level and are processual in nature. These systems of tenure, based on customary law, are very dynamic and often flexible.

Notwithstanding the recognition of rights arising from customary law in the South African Constitution, the post-apartheid legal reforms have failed to recognize the collective customary tenure rights of small-scale fishing communities. Despite a new Policy for Small-Scale Fisheries that is underpinned by a HRBA, the interpretation of the policy remains constrained by the dominance of a top-down, market-orientated approach to fisheries regulation, resulting in de facto preferential access to resources for large commercial interests. Competing interpretations of the HRBA coexist, with powerful conservation interests that refer to collective rights to the environment in support of their claims to stringent environmental protections, such as no-take Marine Protected Areas that have an impact on numerous small-scale fishing communities with customary tenure systems.

In this highly contested terrain, customary communities remain vulnerable. Fulfilment of the principles underpinning the SSF Guidelines requires an interpretation of human rights that includes respect for the integrity of alternative systems of governance of tenure and the systems of customary law within which they are embedded.

AN INDIGENOUS PEOPLE'S PERSPECTIVE ON RIGHTS AND RESOURCE MANAGEMENT

Mr Watson Puiahi, I Lukim Sustainability Solomon Islands (ISSI)

The presentation started off by providing information on the geographical and demographic characteristics of the Solomon Islands. The Pacific Island nation covers approximately 803 000 square kilometres of ocean and 27 556 square kilometres of land; it is composed of six main islands, with a total of 992 islands; and about 82 languages with hundreds of dialects are spoken. Mr Puiahi identified three indigenous groups in Solomon Islands, including the Melanesians, who account for the highest population and occupy relatively more natural resources; the Polynesians, who are regarded as the minority group and who have settled in the small islands; and the Micronesians, who have settled in low-lying atoll islands and are the most vulnerable or marginalized group.

According to Mr Puiahi, natural resources are owned by tribal groups, which have blood relationships and shared cultural beliefs, values and practices. They inherit land or resources either through patrilineal or matrilineal systems. The customarily owned land or resources account for about 85 percent, but the state does not recognize customary law for the protection and respect of indigenous peoples' rights and their resources. This can be addressed through the establishment of a management system such as a national land trust for a more effective and efficient coordination of key players including the state, investors and indigenous people and fishers in relation to rights and resources management for socio-economic development. Traditional conservation approaches have been promoted in communities towards respecting and protecting scarce resources. In most cases, fishers have engaged in conservation programmes to use sustainable tools for small-scale fishing. Environmental degradation

by the extractive industries (mainly logging) operating in the rural areas is a very big concern in Solomon Islands, as they have a lot of negative impact on the coastal areas.

It is therefore important that states and other parties hold good faith consultations with indigenous peoples in order to obtain their FPIC before initiating any project or measure affecting the resources for which they hold rights. It is also important to recognize and protect the legitimate tenure rights of these peoples and adapt policy, legal and organizational frameworks to recognize tenure systems for them in customary law. It is equally important to encourage their participation in the development of laws and policies related to their tenure systems and, where necessary, to strengthen the capacity of communities and their members to participate fully in decision-making and governance in tenure systems.

SUSTAINABLE RESOURCE MANAGEMENT AND DEALING WITH COMPETING SECTORS

Ms Marianne Manuel, Dakshin Foundation, Bangalore, India

The presentation began by highlighting the rich history of social movements formed around questions of environmental protection and tribal rights as well as fisheries governance and fishers' rights in India. The fishers' rights movement has its roots in the conflict between trawlers and small-scale fishers. The need to protect the livelihoods of small-scale fishers in the face of increasing competition from trawlers led to the creation of the National Forum for Catamaran and Country Boat Fishermen's Rights and Marine Wealth in 1978, later renamed the National Fishworker Forum (NFF). The NFF is the only national-level federation of small and traditional fishworkers' unions in India. Over the course of the nearly four decades of its existence, the NFF has successfully moulded several policies on fisheries and coastal development. For instance, it influenced the passing of the Marine Fishing Regulation Act, which created an exclusive fishing zone for small-scale fishers in order to protect their livelihoods, and it continued to engage in the struggle for its enforcement amid protests by the trawling lobby.

When a law was drafted in 2006, which (according to Ms Manuel) would have paved the way for rampant industrialization of the coasts, the NFF joined hands with CSOs and activists to create the National Coastal Protection Campaign (NCPC). The NCPC went on to successfully negate the passage of this law and to ensure the inclusion of local community representatives in the decision-making body at the district level. However, the shift from focusing solely on fisheries governance and fishers' rights to also looking at coastal development and lobbying for community representation in decision-making meant that leaders now had to take on new roles under the modern legal framework, for which many were ill-equipped. Hence there is a need for building capacity within the community to take on these new roles.

The NFF also lobbied for the passage of a fisher rights bill, which was finally drafted in 2009. The provisions of the draft bill go a long way towards entitling SSF communities to certain basic human rights. For example, it recognizes customary rights granted under traditional governance systems, traditional knowledge held by these communities, and community rights to occupy coastal land for livelihood and habitation. A law of this nature that grants tenure rights has become crucial given the increasing demands for coastal land for development activities.

While competition for land as well as marine resources is addressed by the fisher movement through its campaigns for protection of livelihoods, tenure rights

and coastal and marine ecosystems, what is often missing is a focus on communal knowledge and the role of communities in managing resources. When it comes to policy-making or formulation of management plans, the present approach is dependent upon hierarchies where specialists remain in senior positions in committees, as opposed to a system of decision-making which embraces expertise on the ground. Dakshin is currently working with communities in the Lakshadweep Islands that are operating a sustainable, zero-bycatch pole-and-line tuna fishery. In order to build legitimacy for the fishery and to stem attempts to introduce new technologies that are less sustainable, Dakshin is working to set up a community-based monitoring system that yields data owned by the community and can be used to influence or challenge fisheries policy on the islands.

Moving forward, there is a need to adopt a two-pronged strategy for incorporating human rights principles into fisheries governance. The first is at the national level where we have seen that the fishing community in India has immense lobbying power, as seen by its campaigns in the past. Supporting such movements and helping them incorporate more equitable processes (gender equality, inclusion of all marginalized groups) is important, especially in scenarios where the implementation of human rights aspects of environmental laws could be lacking, or where other competing interests of development are gaining increasing priority. Simultaneously, we need to empower communities at the local level so they can lobby for the recognition of their good practices through their incorporation into state policy.

SUMMARY OF WORKING GROUP OUTCOMES AND PLENARY DISCUSSIONS ON THE HRBA IN THE CONTEXT OF RESPONSIBLE GOVERNANCE OF TENURE AND RESOURCE MANAGEMENT

As indicated earlier, the introductory remarks of the session chair and the presentations of the panellists were followed by group discussions on HRBA in the various aspects of governance of tenure and management of resources in SSF. The working group reports and plenary discussions that followed the various presentations covered critical issues within the thematic area. The following major points came out of the discussions:

1. The legitimate (and secure) tenure rights of small-scale fishers and fishing communities to aquatic resources and land should be identified, recognized and protected in both law and practice. Customary tenure rights should be accorded formal recognition with due attention to human rights and gender equality.
2. It is observed that in many countries, the contributions, tenure security requirements and priorities of SSF communities are not fully understood.
3. Governance of tenure is often dominated by statutory and market-driven approaches rather than the recognition of the diverse existing socio-legal and cultural norms and knowledge systems, particularly of indigenous peoples.
4. In many contexts, there is a need for fair, transparent and participatory methodologies as well as processes of recognition of diverse legitimate tenure rights that include grievance mechanisms relating to such recognition.
5. Coastal zone regulations should allow the exercise of secure tenure rights and protect coastal communities from arbitrary eviction, land grabbing and other forms of abuse by more powerful state and non-state actors. It should be recognized that illegal, unreported and unregulated (IUU) fishing has differential impacts on small-scale fishers and fishing communities. There could also be power asymmetries within the SSF sector itself.

6. Fishing rights allocation should take existing (customary) rights into account and balance different interests, including through preferential treatment to vulnerable and marginalized groups such as women and indigenous peoples. The allocation should be based on objective and reasonable criteria, and should follow inclusive, participatory and transparent processes with a view to ensuring social acceptability.
7. Fisheries management should ensure the participation of SSF communities and recognize their traditional knowledge and non-discriminatory institutions. There is a need for better understanding of traditional fisheries management practices.
8. Migrant fishers and people without resource tenure face particularly difficult livelihood challenges and hostile reactions from various actors, including other fishing communities.
9. The HRBA does not create something new but provides more solid bases, moral force and/or structure to the promotion and protection of the interests of SSF communities in fisheries governance and development. This is often accomplished without necessarily being referred to by that name. The Sustainable Development Goals (SDGs) could also serve as good entry points for the promotion of the rights of small-scale fishers and fishing communities.
10. Ensuring secure tenure rights would require improved political will, democratic space for rights claims, narrowing the information and skills asymmetries between SSF communities/organizations and other actors, and dealing with the problems of elite capture and path dependency (in relation to already allocated fishing rights).
11. SSF communities should be empowered, organized and strengthened to advocate for stronger institutions and policy changes.
12. It is important to ensure policy coherence and intersectoral coordination among government agencies, especially with regard to land, water and fisheries tenure.
13. Civil society support groups, including lawyers, surveyors and other professionals, could support front-line service providers in government and self-organizing communities in ensuring security of tenure and participation in the management of resources. Independent research institutions could contribute in the development of reliable data, the documentation of best practices, and in building capacity.
14. There is a need for accessible, gender-responsive guidance on the recognition, protection and claiming of legitimate tenure rights and on balancing different rights, including for use by SSF communities.
15. FAO may play a role in the generation of pertinent knowledge and the facilitation of multistakeholder, intersectoral and tiered platforms that could provide a baseline for further work on the HRBA in the governance of tenure. Regional fisheries organizations could also play an active role in raising awareness about HRBA in the SSF Guidelines. Capacity building should be done with a view to ensuring long-term engagement or institutional memory of the targeted actors.

THEMATIC SESSION 2: HRBA in the context of social development, employment and decent work

Chair: Ms Daniela Kalikoski, FAO

The Chair opened the session by making an introductory presentation on the human rights aspects of Chapter 6 of the SSF Guidelines, which covers the issues of social development, employment and decent work. She then invited two panellists to make presentations on decent work and social protection in SSF.

DECENT WORK IN FISHERIES: US-BASED DISCUSSION ON SLAVE LABOUR IN THE SEAFOOD SECTOR

Mr Edward Allison, University of Washington

The presentation reviewed the reactions among US-based institutions and some other international NGOs to recent revelations of slave labour in the Thai shrimp value chain. The presentation aimed to see if the actions undertaken in response to this clear human rights violation can provide lessons on how to work proactively to strengthen human rights in the small-scale fisheries sector.

A media outcry in response to revelations of forced labour in the seafood sector in the last two years has prompted action in the United States of America, both by the government and the seafood industry. The US Government response included country downgrading in its Trafficking in Persons report to Tier 3, its lowest designation. Moreover, the Trade Facilitation and Enforcement Act of 2015 closed a loophole in the Tariff Act of 1930 that permitted the country to import goods made from indentured servitude if US supply could not meet domestic demand. While this would also prohibit the importing of other slave labour products, it was pushed largely because of efforts to ban fish caught by forced labour in Southeast Asia. An Amendment also mandates Customs and Border Protection to file annual reports to Congress on relevant enforcement actions, allowing more public oversight of how agencies handle these allegations.

The IUU Enforcement Act of 2015 cracks down on IUU fishing, and acts as an implementing measure for the Port State Measures Agreement to prevent foreign vessels suspected of illegal fishing from using port resources. In relation to this, the Presidential Task Force on Combating IUU Fishing and Seafood Fraud was established, which includes a proposed National Oceanic and Atmospheric Administration fisheries rule to allow for improved seafood traceability (Seafood Import Monitoring Program). At this stage it will only be applicable to those species identified as particularly vulnerable to IUU fishing (by value about 40 percent of seafood entering the US), but the expectation is to expand the programme, which would include data reporting

and record-keeping procedures but not include a consumer-facing labelling scheme. A document produced by the Task Force mentions labour occasionally but not human rights. It also mentions small-scale fisheries twice in regard to the fact that they may be threatened or impacted by IUU fishing.

At the state level, California has passed its own Transparency in Supply Chains Act which requires retailers and manufacturers with over US\$100 million in global sales to disclose their activities in order to root out slavery in their supply chains.

The forgoing measures are largely focused on imports to the US and a traditional vision of IUU fishing that means vulnerable species are classified by state of the species, while socio-economic issues related to the fishery are not considered.

Recent events in Hawaii provide an example of an extreme response at the state level in the United States of America. In September 2016 the media reported again on labour abuses in the seafood sector, revealing that a loophole in Federal regulation allowed foreign fishers to work on Hawaiian longline fishing vessels while being exempted from most labour laws. Many of these foreign workers come from traditional fishing villages in Indonesia. As a result of the allegations of forced labour, some high-profile markets have chosen to suspend buying Hawaiian seafood until the allegations are addressed. Other markets have continued to sell Hawaiian seafood while they monitor the situation.

In response, a task force was created consisting of key Hawaiian longline vessel owners and supply companies, and the Honolulu Fish Auction and the Hawaii Seafood Council were established. The task force developed an action plan for: 1) addressing the allegations of forced labour, 2) surveying the working conditions on the vessels, and 3) hearing from the foreign crew.

The Hawaii Longline Association created a universal crew contract (available in four languages) to protect foreign crew rights and pay, and the Fish Auction committed to only sell fish from boats using the universal contract. As federal officials cannot enforce this contract, it is a self-imposed measure of the industry. The Task Force also recruited a uniquely qualified social scientist to conduct vessel inspections and crew interviews. Working with interpreters, the social science team conducts rapid assessments, with about 70 vessels so far having been inspected. It has held meetings with key fishers and suppliers who are in positions to help share information with the fishing vessel owners. The Task Force reaches out to organizations that can serve as an advisory group to provide guidance on addressing the labour situation on board Hawaiian fishing vessels including the Hawaii-Pacific Seafarer's Ministry, the Philippine Consulate, the Honorary Consul for Kiribati, others involved in support of Indonesian and Vietnamese crewmen, and an organization that deals with immigrant and refugee issues in Hawaii. The Task Force also reaches out to federal agencies including the Customs and Border Patrol (part of the Department of Homeland Security), the US Department of Labor and the US Coast Guard.

At the state level, a discussion on improved oversight and conditions was held, for example, through better sharing of crew data between regulatory agencies and unionizing workers. The Board of Land and Natural Resources opposed a petition of the Department of Land and Natural Resources from anti-trafficking advocates to change commercial fishing license rules, stating that labour issues were beyond their jurisdiction. Two fishers from Hawaiian longline vessels filed a Federal lawsuit stating that they had escaped after being forced into work and then being paid less than promised. They seek restitution but the boat owners deny any human trafficking; the

owners insist the pay and treatment of their workers are fair, and accuse the fishers of having broken the contract.

The United States of America and the UN have set excellent standards that define the process for assessing labour abuses, including the US Department of Labor's social responsibility toolkit and the UN Guiding Principles on Business and Human Rights. Some NGOs are also engaged in activities which can or already contribute to improved social sustainability in the seafood sector, including small-scale fisheries (e.g. the Fair Trade Seafood Certification of tuna from SSF in Indonesia, or the Labor Safe Screen tool for corporate food buyers, which provides insight on where modern day slavery is taking place and what can be done).

Issues to consider in connecting with small-scale fisheries in this context include:

- Actions by multiple state and non-state actors on labour issues in the seafood sector were spurred by media reporting of extreme human rights violations and a direct link to US business and consumer interests.
 - What can guide action on less dramatic but more common shortfalls in human rights standards with respect to small-scale fisheries?
 - Can similar traceability standards for labour issues be developed for domestic and regional markets?
- Issue linkages were critical: in this case the ability to use trade regulations, labour laws, corporate social responsibility initiatives, and the donor emphasis on IUU fishing as implementation strategies.
 - Can the SSF Guidelines be used as a basis to redefine “Illegal fishing” as fishing that breaks national/international human rights-related law, and not just domestic/international fisheries regulations?
- The importance of advocacy coalitions: increasingly, there is strong and effective advocacy for indigenous rights, maritime workers in industrial fisheries, and traditional fishing communities.
 - What about non-traditional small-scale fisherfolk, who may be the most marginalized people in the fisheries sector?

SOCIAL PROTECTION IN FISHERIES-DEPENDENT COMMUNITIES IN THE CARIBBEAN

Mr Terrence Phillips, CANARI

The presentation referred to an FAO-funded study on social protection to foster sustainable management of natural resources and reduce poverty in fisheries-dependent communities in the Caribbean, which used Saint Vincent and the Grenadines and Trinidad and Tobago as the pilot countries. The purpose was to conduct research on the linkages between social protection, natural resource management, women's and overall people's empowerment, and poverty alleviation in fisheries-dependent communities. The study reviewed the regional policy framework for social protection, examining national and sector-specific social protection policies and programmes and their use and impact on small-scale fish harvesters in communities in the two pilot countries. It further outlined key findings and recommendations for the improvement of national social protection measures in order to benefit small-scale fishers in each country.

The presentation identified gaps in the regional policy framework for social protection in the Caribbean Community (CARICOM), including the absence of an overarching policy and strategy on social protection; inadequate intersectoral planning to address issues of poverty and vulnerability at the regional level; insufficient

monitoring and evaluation of the implementation of regional policies and strategies related to the reduction of poverty and vulnerability and the provision of social protection; and inadequate institutional arrangements to promote participatory governance and management of natural resources at the regional level. The study found that fishing households in Trinidad and Tobago benefitted from a wider range of social protection programmes when compared to those in Saint Vincent and the Grenadines, while there was lack of or low involvement of fishers in social security systems in the respective countries. The governments of both countries provided subsidies in the fisheries sectors, mainly to reduce input costs and assist in times of natural disasters. Natural disasters such as hurricanes, storms, rough seas and floods were the major environmental hazards affecting fishing households in the communities studied.

The key factors affecting fisheries governance and social protection in small-scale fisheries included lack of approved fisheries policies or management plans, inadequate mainstreaming of climate change adaptation and disaster risk reduction in fisheries sector planning and development, inadequate mechanisms for promoting participatory fisheries governance, and low capacity of fisherfolk organizations.

The key recommendations included the need to: integrate social security, climate change adaptation and disaster risk management into fisheries policies and plans; use a more participatory approach in policy formulation, execution and monitoring; tailor social insurance to meet the varying needs and capacities of fisherfolk; and invest in building resilient fisherfolk organizations, recognizing that they can play a critical role in reducing risks and vulnerability associated with the livelihoods of small-scale fisherfolk through policy influence and direct provision of benefits to members.

SUMMARY OF WORKING GROUP OUTCOMES AND PLENARY DISCUSSIONS ON THE HRBA IN THE CONTEXT OF SOCIAL DEVELOPMENT, EMPLOYMENT AND DECENT WORK

The introductory remarks of the session chair and the presentations of the two experts were followed by group discussions on the HRBA in the various aspects of social development, employment and decent work. The presentations as well as the feedback from the working groups were followed by plenary discussions. The following are among the main points that came out of the presentations from the group work and the two rounds of plenary discussions:

1. Small-scale fishing communities face poverty and marginalization in terms of security of resource tenure, access to social services, participation in decision-making, etc. There should be participatory policy-making processes to make sure that social development and social security policies are responsive to the needs and human rights of SSF communities. The implementation of the SSF Guidelines should be associated with the SDGs.
2. Political will and organizational capacity should be strengthened, and intersectoral coordination should be ensured. The capacity of fishers to voice their needs should be strengthened, including through their recognition and organization at local, national and regional levels into trade unions, cooperatives and other forms of associations.
3. Overregulation of fisheries management may be detrimental to SSF communities unless their human rights are taken into account, in the same way as non-regulation in areas such as labour and social security subjects them to serious problems. In examining the regulation of the SSF sector, we should go beyond fishery laws to

look at legislation governing agriculture, forestry, oil and gas, etc.

4. Small-scale fishers face serious challenges in terms of safety at work and other decent work standards. There are uncontrolled recruitment practices, at both national and international levels, that take advantage of marginalized groups. Recent investigative media revelations of trafficking, forced labour and substandard labour practices on board fishing vessels, including in developed countries, has triggered actions by states, non-state actors and advocacy coalitions for better labour protection in fisheries.
5. The prevalence of informality in the SSF sector limits not only the security of tenure but also labour protection and access to social security. There is a need to go beyond fishery laws, which do not normally cover labour issues, to bring general human rights, labour and social security laws to bear on SSF.
6. While the importance of including labour in the SSF sector in the definition of “illegality” within the fight against IUU fishing is recognized, the challenges posed by the non-coverage of people working in the sector by many domestic as well as international legal frameworks are also underscored. It is recommended that the UU (unregulated and undocumented fishing) part of IUU fishing should be considered differently in the SSF sector, which may not necessarily be regulated or may be regulated in a way that does not fully reflect the various rights and livelihood systems.
7. The community-level definition of acceptable working conditions and labour standards that could be enforced at local levels is recommended as one way of ensuring labour protection in the SSF sector.
8. Fish crimes are not defined in ways that take the safety and property of SSF communities fully into account. It is recommended that FAO coordinate with other relevant organizations such as INTERPOL, and ensure that instruments such as the Port State Measures Agreement and the SSF Guidelines are coherently implemented.
9. SSF communities have unique needs in terms of social protection, but relevant schemes do not usually apply to people who are self-employed or informally employed. Guidance may be sought in this respect from other sectors.
10. Gender, aging, youth and migration are identified as issues that need particular attention in SSF, especially in terms of vulnerability to violence and abuse. Capturing vulnerability in statistical data, raising awareness within communities, intergenerational learning (particularly in indigenous communities), and strengthening governance institutions are recommended.
11. The prevalence of traditional gender roles and practices that do not reflect the involvement of women in SSF affects their social development and access to decent work. There is need for awareness raising on gender equality and also guidance for the various actors in the sector in this respect.
12. There is insufficient understanding about the nature and dimensions of the issues relating to migrant fishers among state as well as non-state actors, including fishing communities. Lessons should be drawn from norms and practices in the protection of the human rights of stateless persons, and the extraterritorial application of human rights and ways of addressing the problems through bilateral and multilateral agreements should be explored.
13. Government institutions should work on knowledge retention. The academic community could play a role in documenting best practices and bridging the knowledge gap while avoiding “solutions” that are not grounded in local realities.

14. Local civil society organizations, including professional organizations and women's organizations, should work with other actors in advocating for the implementation of labour standards in SSF, including through market incentives that involve retailers and consumers.
15. Relevant tools should be identified and case studies should be developed on community standards on occupational safety and health, social protection and other related issues in the SSF sector.
16. The socio-economic rights of small-scale fishers and fishing communities should be integrated into reports for the Universal Periodic Review and other treaty-based human rights monitoring bodies. Furthermore, there should be a monitoring mechanism for the implementation of the SSF Guidelines.

THEMATIC SESSION 3: HRBA in the context of value chains, post-harvest and trade

Chair: Ms Yvette DieiOuadi, FAO

The Chair opened the session with an introductory presentation entitled “Understanding the guiding principles of the HRBA in the framework of Chapter 7 of the SSF Guidelines”. She noted that although human rights are not specifically referred to in the chapter, the key principles of the HRBA are clearly articulated and the roles and responsibilities of different actors (especially that of states) are spelled out. The presentation then referred to specific provisions of the SSF Guidelines such as those relating to the vital role of women and fair treatment for all, an enabling environment for efficient and responsible post-harvest operations, organizational and capacity development, and equitable distribution of benefits from trade. Finally, the chair invited three speakers to address the themes of the role of women in fisheries value chains, socially responsible seafood, and organizational experience in risk identification in supply chains.

THE ROLE AND PLACE OF WOMEN IN THE FISHERIES VALUE CHAIN

Ms Editrudith Lukanga, WFF

This presentation provided an overview of human rights issues in SSF value chains, post-harvest and trade from the perspectives of gender and the application of the HRBA.

After referring to the provisions of the SSF Guidelines that refer to unequal power relations in the role of women and the importance of participatory decision-making in value chains, it was noted that women constitute half of the 120 million people who work in capture fisheries and associated supply chains, especially in pre- and post-harvest activities and near-shore fishing. However, they have a relatively low level of access to fisheries resources and assets because of factors including traditional beliefs, norms and laws, which in turn exclude them from the management of resources and confine them to the lowest level of fish value chains.

A study conducted in the intertidal area in the West Indian Ocean (Mozambique and the United Republic of Tanzania), for example, revealed that despite the role played by women as the main harvesters of aquatic animals and in transferring harvesting and conservation skills to women of younger generations, they receive no management attention or any type of formal recognition. Their livelihood is also put at risk owing to conflicts with tourism, new immigrant settlements and coastal development.

Among other HRBA issues, the presentation highlighted the right to equitable access to productive resources, information, extension services, financial services and adequate infrastructure as key elements. It also underlined the importance of inclusive

participation, given that women are left out of decision-making processes and thus their interests, values and knowledge are not reflected in decisions affecting their lives.

In conclusion, the human rights that are embedded in value chains, post-harvest and trade cannot be achieved without the inclusive participation and involvement of vulnerable and marginalized groups, particularly women. Capacity support initiatives for implementation and monitoring of the SSF Guidelines should cover the entire value chain, including pre-harvest, harvest, post-harvest and marketing.

TOWARDS SOCIALLY RESPONSIBLE SEAFOOD

Ms Elena Finkbeiner, Stanford University

The presentation was prepared in collaboration with Jack Kittinger of Conservation International and outlined a multistakeholder effort working to develop a definition of socially responsible and ethically-sourced seafood, with the goal of guiding supply chain certification organizations in their integration of social justice standards into sustainability certification schemes.

Recent media coverage has brought to light some of the most egregious human rights violations in fisheries. However, Ms Finkbeiner noted, slavery, human trafficking and child labour are only the tip of the iceberg with respect to the persistent and pervasive social issues small-scale fisheries face across developed and developing country contexts. In response, many certification programmes in the seafood sector are beginning to grapple with their own definitions and means of measuring social responsibility. This has been taken as an opportunity to provide definitional clarity and to help incorporate principles of a human rights-based approach.

The main objective of the Committing to Socially Responsible Seafood project is to co-produce an agreed upon definition of socially responsible and ethical seafood, which will inform a range of efforts across the broad community of practice to support progress on these issues. The think tank leading this involves 38 co-authors representing academic, non-profit, government, philanthropic, and private sectors across socially and environmentally oriented interests. Working from the Guiding Principles in the SSF Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries, three potential principles of socially responsible seafood have been distilled: protect human rights, dignity and rights to resources; ensure equality and the equitable opportunity to benefit from fisheries resources; and improve food and livelihood security.

The next step in defining socially responsible seafood is to explicitly link each principle to relevant and existing frameworks, laws and policies that can help guide and support implementation, in addition to linking them to potential indicators for monitoring. If these principles are then taken up by certification organizations, a key role for philanthropic and non-profit sectors will be to address the inequalities in market access inherent in the adoption of any new standards. The role of the state is seen as incorporating policy on socially responsible seafood in both domestic production and international trade of seafood. Finally, there is a need for increased partnerships across environment and social development sectors.

SUPPLY CHAINS AND MARKET LEVERAGE: SFP'S ROLE, TOOLS AND PROJECTS

Mr Pedro Ferreiro, SFP

Sustainable Fisheries Partnership (SFP) is a US-based environmental NGO that works with major seafood buyers (retailers, seafood suppliers, processing companies, food

services, etc.) to help them identify risks associated with their supply chains and the fisheries from which they are sourced. Once risks are identified, SFP provides the buyers with the tools and advice required to use their purchase leverage to promote improvements aimed to reduce those risks under the fishery improvement project (FIP) model.

Since its founding in 2006, SFP has focused on improving the environmental sustainability performance of fisheries and aquaculture production activities where SFP's partners can provide market leverage. This has helped improve the overall environmental sustainability performance of the SFP partners' purchases. However, there is still room for improvement, especially in those fisheries where social issues are a key factor preventing the achievement of appropriate sustainability levels. Together with the growing number of investigations into and reports of human rights abuses within the fishing industry, this has increased SFP partners' concerns on the matter, and pushed SFP to include these issues in its work. SFP's core expertise lies in fisheries, aquaculture and market knowledge, with limited expertise in human rights and social issues. It is therefore seeking stronger collaborations with entities focusing on labour and human rights issues in fisheries.

SFP is using fishery improvement projects (FIPs) such as the Gulf of California Shrimp FIP and the Indonesian Blue Swimming Crab FIP as case studies on how social issues can be better integrated into the FIP model and also to assess the importance of market leverage in promoting improvements in the social realms of fisheries. In the case of the Mexican shrimp fishery, improvements are being pushed through the USA Fair Trade Certification Scheme for fisheries, while for Indonesian crab, SFP is developing a bioeconomic model to measure the socio-economic impact of the implementation of new management regulations and pilot corrective measures. In both projects, a key element is the required engagement of all stakeholders, from government authorities to fishers and village leaders, and also including scientists and supply chain actors, in order to work together on finding solutions to identified problems.

As SFP partners start to prioritize further investigation on the violation of human rights in source fisheries, SFP has developed a Human Rights Abuse Risk indicator, which is publically available on FishSource.com and shows the potential risk within a given fishery. In order to have a deeper understanding of human rights risks and be able to identify more specific areas of risk, SFP is working with the Monterey Bay Aquarium and Seafish to develop a tool that will allow systematic assessments of risks in source fisheries. Furthermore, in order to compare fisheries' performance, SFP is developing a set of socio-economic indicators and scores that will be available on FishSource by the end of 2017.

In order to foster market and supply-chain engagement in promoting social improvements in fisheries, during 2017 SFP will start to develop voluntary guidelines for markets and supply chain industry involved in SSF in line with the FAO SSF Guidelines.

SUMMARY OF WORKING GROUP OUTCOMES AND PLENARY DISCUSSIONS ON THE HRBA IN THE CONTEXT OF VALUE CHAINS, POST-HARVEST AND TRADE

After the thematic presentations, a brief discussion took place in plenary based on questions and answers in relation to what had been presented. Then the three working groups discussed the HRBA in the context of value chains, post-harvest and trade and

presented their results back to plenary. The following main points summarize these plenary and working group discussions.

1. There are power imbalances in the value chains, and as problems of prices and price settings are often not dealt with, there is a risk of “poverty traps” due to dependency relationships. There is hence a need to strengthen the power of those with current weak bargaining positions in order to ensure more equitable benefits and income. This can be done through empowerment, capacity and organizational development, and legal support.
2. The collective bargaining power of small-scale fisheries actors can be enhanced by promoting the creation of cooperatives and other supportive structures to negotiate prices on their behalf and facilitate cooperation. To create viable and functional cooperatives, capacity development is needed and cooperatives should be designed appropriately with a view to achieving the desired outcomes.
3. There is a need to think more broadly about the value chain to ensure improved integration among various actors and do away with silos. The ecosystem approach to fisheries (EAF) is an integrated approach that could be better used.
4. International cross-border fish trade, its power relationships, and related flows of capital need to be recognized. Governments should strive to negotiate international trade deals that are favourable to small-scale fisheries. Small-scale fisheries actors should become more aware of their position in international value chains and take a longer-term perspective on sustainability.
5. Certification schemes are becoming increasingly popular; they bring attention to social and labour dimensions in addition to environmental sustainability. The system of corporate social responsibility (CSR) is different from human rights frameworks, as the latter have a stronger legal basis while CSR is voluntary. It would be good to develop a definition of “socially responsible seafood” with an ethical dimension. It should be noted that human rights are continuous commitments that need to be met with social implications in mind. There is a need to better understand if and how certification schemes can support the realization of human rights in small-scale fisheries.
6. The efficiency of the post-harvest sector should be improved, including by protecting the health of post-harvest workers, reducing post-harvest losses and adding value to fishery products for increased incomes. Domestic consumption of fish should be promoted to improve the nutritional security of women and children in particular.
7. There is a lack of information on the role of women in the value chain, including both their contribution and the benefits they receive. There is a need not only to work on women’s empowerment but also to influence male behaviour in order to create gender equality. States need to take special measures to eliminate discrimination against women at all levels.
8. FAO can play a role in supporting the development of a value chain framework in the context of the SSF Guidelines, promoting integrated approaches such as EAF, providing capacity development, and addressing awareness and knowledge gaps. For guidance in relation to certification, collaboration (for example with the ILO) on benchmarks for decent work will be required. Collaboration with NGOs and the private sector could be sought for financial support. Both NGOs and CSOs have roles to play at the local level to support fishing communities.

THEMATIC SESSION 4: HRBA in the context of disaster risks and climate change

Chair: Ms Florence Poulain, FAO

The session commenced with an introductory presentation of the Chair on the HRBA in the context of disaster risk and climate change. She identified the human rights dimensions of disaster risk and climate change. Accordingly, disaster-affected people face problems such as unequal access to assistance, discrimination in aid provision, forced relocation, sexual violence and loss of identification documents. She also highlighted the disproportionate impacts of climate change on persons in vulnerable situations, extending from their rights to food, water, health and housing to the very right to self-determination and existence of coastal communities, which also raise concerns of climate justice, fairness, equity and access to remedy. Reference was made to the provisions of the Paris Agreement that require the Parties to respect, promote and consider their respective obligations on human rights when taking action to address climate change, and the requirement of the Global Framework for Disaster Risk Reduction that all human rights should be promoted and protected in managing disaster risks. The Chair then made a schematic presentation of the human rights and principles relevant to disaster risk and climate change under the SSF Guidelines, categorizing them under civil and political rights; economic, social and cultural rights; and the rights of vulnerable groups. After underscoring the importance of applying the HRBA within the relief-development continuum, the Chair invited two panellists to present on the HRBA in climate change and experience from livestock in emergencies, respectively.

CLIMATE CHANGE, SMALL-SCALE FISHERIES, AND THE HUMAN RIGHTS-BASED APPROACH

Mr Anthony Charles, School of the Environment, St. Mary's University

The presentation explored how the impacts of climate change, and the corresponding adaptation responses of small-scale fisheries and coastal communities, can be assessed and understood in the context of a human rights-based approach. It also discussed how climate impacts may be seen as hazards affecting fisheries and communities, so that disaster risk responses and climate responses can be usefully examined together.

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1. The presentation explored how the impacts of climate change, and the corresponding adaptation responses of small-scale fisheries and coastal communities, can be assessed and understood in the context of a human rights-based approach. It also discussed how climate impacts may be seen as hazards affecting fisheries and communities, so that disaster risk responses and climate responses can be usefully examined together.

2. **Assessing the fishery system holistically**, including the direct impacts on users (e.g. fishers, post-harvest), the impacts on related economic sectors (e.g. tourism or aquaculture, which may interact with fisheries), the impacts on the community and society (e.g. health and infrastructure) and environmental impacts (e.g. how climate change interacts with land-based pollution). Multiple scales must be considered, since impacts will vary from community to coastline to nation, etc.
3. **Examining distribution, equity and fairness** (e.g. class, gender, ethnicity), including fair distribution of the costs of climate change (avoiding undue impact on small-scale fisheries/communities). It is important to assess whether essential human needs are being considered, and whether some groups are discriminated against, in climate change responses.
4. **Ensuring good governance practices** (participation, co-management) linked to policy commitments (national and international) and development priorities. This includes looking at multiple pathways. For example, food security in fishing communities will be affected by climate change in multiple ways, such as movement of people, impact on infrastructure and living space, and productivity of fisheries.
5. **Adjusting fishery policy** so that it does not exacerbate climate impacts, thus putting small-scale fisheries at a disadvantage. This could include shifting policy measures to support area-based solutions at the community level, such as local management; or more broadly, to ensure that as climate change leads to spatial shifts in species distribution, small-scale fishers (who are tied to their local communities) are able to change the species mix they catch and diversify their markets and coastal economies. The latter may involve ensuring appropriate use rights arrangements (including, in some cases, fishery licensing changes) so as to avoid negative distributional impacts.
6. **Utilizing systematic monitoring and assessment frameworks** (such as checklists or scorecards) that incorporate the HRBA to keep track of the impacts of climate change and of corresponding adaptation responses. Indeed, such frameworks may be useful in the broader application of the HRBA for small-scale fisheries and fishing communities.

EXPERIENCES FROM LIVESTOCK INTERVENTIONS IN EMERGENCIES

Mr Philippe Ankers, FAO Rural Poverty Reduction Programme

The presentation shared experience from livestock interventions in emergencies by discussing the approach used by FAO and its partners in emergency interventions for livestock-dependent communities, and comparing that with similar situations involving fishing communities.

Just like fishing communities, many livestock-dependent communities are located in areas that are prone to natural disaster, particularly sensitive to climate change, or where the political situation is volatile. When disaster hits, FAO – through its 89 regional, subregional and country offices – facilitates and often coordinates responses, with a focus on linking relief to rehabilitation and development. The FAO emergency programme is funded mainly from extra-budgetary resources. FAO investments in emergency response and resilience building have grown from US\$160 million/year in 2002 to over US\$400 million/year today.

The need to improve the quality of interventions made by both governments of affected countries themselves and by a wide range of organizations, during emergencies affecting livestock-dependent communities, was made evident in 2004. The occurrence

of droughts in the Horn of Africa was increasing, but the response usually focused on immediate needs, with limited consideration for people's longer-term needs and rights. Interventions would often overlook or undermine local capacities, and ran the risk of actually jeopardizing longer-term development efforts. Assistance regularly arrived late with little flexibility for shifting priorities. Impact assessment was limited, and there were no guidelines available.

FAO facilitated the preparation of the independent Livestock Emergency Guidelines and Standards (LEGS), published first in 2009 and revised in 2015. LEGS focuses on five interventions (destocking, veterinary services, feed and water supply, shelter, and provision of livestock) and is structured around livelihood objectives, underpinned by a rights-based approach (namely, the right to food and the right to adequate standards of living). LEGS is a SPHERE companion and adopts the four protection principles of SPHERE: 1) Avoid causing harm; 2) Ensure access to impartial assistance; 3) Protect people from violence; 4) Assist with rights claims, access to remedies, and recovery from abuse. LEGS' first of eight Core Standards is "Participation", by which it proposes tools to identify appropriate, timely and feasible responses: a Participatory Response Identification Matrix (PRIM) tool, decision trees, a list of disadvantages and advantages for each intervention option, timetables, standards, key indicators and guidance notes.

FAO, the European Commission and the Office of US Foreign Disaster Assistance (OFDA), among other donors, have supported a worldwide LEGS training programme. To date, 403 LEGS trainers have carried out 215 trainings for over 4 500 people in 42 countries.

FAO also published the How To Do it Manual for livestock related interventions during emergencies in 2016. The manual provides technical information on destocking, animal health interventions, feed and water distribution, shelter for livestock, and cash transfer programmes. The five freedoms (Freedom from hunger; Freedom from discomfort; Freedom from pain, injury or disease; Freedom to express normal behaviour; Freedom from fear and distress) are used as entry points for animal welfare.

The combination of common standards and guidelines, a global training programme, and a technical manual for livestock-related interventions during emergencies has proven very useful in improving the quality of interventions.

SUMMARY OF WORKING GROUP OUTCOMES AND PLENARY DISCUSSIONS ON THE HRBA IN THE CONTEXT OF DISASTER RISKS AND CLIMATE CHANGE

After the above presentations and ensuing plenary discussions, the working groups broke off to discuss various aspects of the HRBA in disaster risk and climate change, and then reported back to plenary. The following points came out of the plenary and working group discussions relating to disaster risks and climate change.

1. It is the responsibility of states to implement adequate safeguards in relation to disaster risks and climate change, but approaches should be bottom-up and inclusive. There should be a systematic analysis of to what extent and how human rights are taken into account in disaster risk and climate change interventions. The HRBA should be applied in the whole continuum from preparedness to rehabilitation and development, and in both mitigation and adaptation.
2. Climate change may lead to extensive migration, something that is not foreseen or addressed clearly in the SSF Guidelines. When people migrate, they may find themselves in a situation with less secure rights. Efforts to apply a HRBA should

focus on the most vulnerable; these could be migrants who are not part of small-scale fishing communities. However, there is no legal framework for climate refugees.

3. Disaster risks, climate change and migration put pressure on coastal management plans and tenure rights. There needs to be an adaptive strategy for tackling fluctuations and change and for addressing potential tensions between different right holders.
4. Approaches should be adapted to sudden- and slow-onset disasters. Existing guidance on disaster risk, climate change and human rights, community-based knowledge, and lessons learned from other sectors such as livestock should be used to develop SSF-specific approaches.
5. FAO should collaborate with other partners to develop guidance on the legal implications of disaster and climate change on SSF and on how to balance rights. There is also a need to reconcile existing guidance and to document good practices and community knowledge. To ensure systematic assessment of the incorporation of the HRBA and to monitor impacts of climate change and related responses, tools in the form of checklists would be useful.

CONCLUDING SESSION:

Towards guidance on the HRBA in small-scale fisheries

Chair: Ms Nicole Franz, FAO, and Ms Lena Westlund, FAO

FACILITATED DISCUSSION

The discussions identified a few key points for consideration in relation to the application of the HRBA in small-scale fisheries, which are summarized below:

- Gender:
 - Gender considerations have to be brought out more strongly and should be an integral part of mainstreaming activities in relation to the HRBA.
- Tenure:
 - Any considerations of tenure issues should take into account customary rules, fishing community interests and indigenous peoples' rights.
 - The issue of collective rights deserves particular attention in the context of the HRBA. This includes developing a better understanding of how to recognize collective rights and improving legal arguments that support collective rights.
 - There is a need to differentiate between rights-based approaches and the human rights-based approach in fisheries. This also involves discussing property rights.
- Inland fisheries:
 - The specificities of inland fisheries that are relevant for the application of the HRBA need to be identified and addressed better.
- Disaster risk and climate change:
 - It is key to realize that the issue is not merely protecting people but rather protecting them by using a human rights-based approach, e.g. through an increased application of a HRBA in disaster response.
- Capacity development:
 - There is a need to better understand how to comply with human rights in SSF governance and development. FAO can play a role in providing guidance and clarification on this, including through the collection and analysis of examples from inland and marine fisheries and by looking at EAF as an example on how to apply an approach.
 - There are a number of morally contentious issues and dilemmas to address (e.g. how to deal with the impact of migration in small-scale fisheries). This will require intellectual preparedness, and FAO has a role to play in this discourse.
- Roles of other actors:
 - Small-scale fisheries organizations should be involved more strongly in the debate, and engagements between academia and NGOs should also include fishing communities.

- When engaging with different partners, the interests and drivers of different actors should be carefully considered.
- Other UN agencies can play a pertinent role, and FAO should explore how to engage with them in relation to the different elements of the SSF Guidelines.
- Monitoring:
 - A situational analysis of the human rights situation in small-scale fisheries could serve as a baseline for the implementation of a HRBA.
 - The development of human rights-related indicators is crucial to measuring progress in relation to the implementation of the SSF Guidelines.
- Mainstreaming:
 - Linking the SSF Guidelines to the SDGs is important, and this should not be limited only to SDG 14.
 - FAO should support countries in better understanding the SSF Guidelines and link such support to national policy processes.
 - FAO should raise awareness of the HRBA along the entire fisheries value chain, as some actors may not have been exposed to the debate.

Participants agreed on the need to further explore the HRBA in small-scale fisheries in order to develop a full understanding. The SSF Guidelines implementation process is still in its initial phase; some issues can be thought through, while others can be solved by trial and error. An exploratory approach with different avenues was therefore suggested, in which results are recorded and compared.

NEXT STEPS

Ms Nicole Franz, FAO

The immediate next step in relation to follow-up to the workshop is the preparation of the workshop report, which will be made available to all workshop participants and through the FAO website.

In addition, FAO will integrate lessons from the workshop in the framing of already planned and upcoming activities, including among others:

- Expert workshop on gender-equitable small-scale fisheries in the context of the implementation of the SSF Guidelines on 28-30 November 2016;
- Development of an assessment tool to support the SSF Guidelines implementation in 2017;
- Regional awareness-raising and planning workshops, including for the SADC countries in December 2016;
- Case study compilation to inform the SSF Guidelines implementation in 2017;
- Capacity development for indigenous peoples in Central America in 2017.

FAO will also follow up on specific findings from the workshop and develop related activities. It was suggested that FAO explore possibilities to establish information sharing mechanisms, for example through an e-mail list, to continue the shared learning process in relation to the application of the HRBA in small-scale fisheries.

CLOSING REMARKS

Mr Manuel Barange, Director, Fisheries and Aquaculture Department, FAO

Mr Barange pointed out that human rights are central to the work of FAO. This is also illustrated by other instruments developed under the aegis of FAO, including the

Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, and the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security.

He acknowledged that there is a wide range of views and experience around the issue of human rights and that in relation to fisheries, sustainability plays a key role. He stressed that the workshop was an important starting point for exploring how to apply the human rights-based approach to fisheries and that changing conditions, due to diverse factors such as population growth and climate change, are likely to pose new challenges in this context. He closed his remarks by thanking participants for their active and constructive participation in the event.

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Annex 2 – Workshop agenda

Monday, 24 October 2016	
INTRODUCTORY SESSION Chair: Rolf Willmann, Independent Expert	
9:00	Welcoming remarks Árni Mathiesen, Assistant Director-General, FAO Fisheries and Aquaculture Department
9.10	Participants' introductions
9.55	Overview of workshop objectives, expected outputs and <i>modus operandi</i> Lena Westlund, FAO
10.05	Introduction to the Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication (SSF Guidelines) Nicole Franz, FAO
10.20	Introduction to the human rights-based approach (HRBA) Sisay Yeshanew, FAO Legal Department
10:50	Coffee break
11.05	Brainstorming: The human rights guiding principles of the SSF Guidelines
12.00	A CSO perspective on human rights issues in the implementation of the SSF Guidelines Sebastian Mathew, ICSF
12.15	Roles of different players in the application of the human rights-based approach in SSF Svein Jentoft, Arctic University of Norway
12:30	Lunch
14.00	Reporting back from the brainstorming discussions
14.30	A focus on gender in small-scale fisheries Mohammad Nuruzzaman, Independent Expert, Bangladesh
14.45	A human rights-based approach to food security and nutrition in small-scale fisheries Christopher Mbazira, School of Law, Makerere University, Uganda
15:00	Coffee break
15.15	THEMATIC SESSION 1: HRBA in the context of responsible governance of tenure and resource management Chair: Michael Windfuhr, German Institute for Human Rights
15.25	Collective customary tenure rights to aquatic resources and land in the context of the SSF Guidelines: experiences from South Africa Jacqueline Sunde, University of Cape Town
15.40	An indigenous people's perspective on rights and resource management Watson Puiahi, I Lukim Sustainability Solomon Islands (ISSI)
15.55	Sustainable resource management and dealing with competing sectors Marianne Manuel, Dakshin Foundation, Bangalore, India
16.10	Three parallel working groups
17.30	Closure of the day

Tuesday, 25 October 2016	
09.00	Summary of Day 1 Lena Westlund, FAO
09.10	Reporting back from working groups and discussion
10:00	Coffee break
10.15	THEMATIC SESSION 2: HRBA in the context of social development, employment and decent work Chair: Daniela Kalikoski, FAO
10.25	Decent work in fisheries: US-based discussion on slave labour in the seafood sector Edward Allison, University of Washington
10.40	Social protection in small-scale fisheries: case study from the Caribbean Terrence Phillips, CANARI
10.55	Three parallel working groups
12:15	Lunch
14.45	THEMATIC SESSION 3: HRBA in the context of value chains, post-harvest and trade Chair: Yvette DieiOuadi, FAO
14.55	Value chain and trade issues in small-scale fisheries Editrudith Lukanga, WFF
15.10	Towards socially responsible seafood Elena Finkbeiner, Stanford University (Jack Kittinger, CI)
15:30	Coffee break
15.45	Three parallel working groups
17.30	Closure of the day
Wednesday, 26 October 2016	
09.00	Summary of Day 2 Lena Westlund, FAO
09.10	Reporting back from working groups and discussion
10:10	Coffee break
10.25	THEMATIC SESSION 4: HRBA in the context of disaster risks and climate change Chair: Florence Poulain, FAO
10.35	Climate change in small-scale fisheries Anthony Charles, School of the Environment, St. Mary's University
10.50	Experiences from livestock interventions in emergencies Philippe Ankers, FAO Rural Poverty Reduction Programme
11.05	Three parallel working groups
12.30	Reporting back from working groups and discussion
13:15	Lunch
14.45	CONCLUDING SESSION: Towards guidance on the HRBA in small-scale fisheries Chair: Nicole Franz, FAO, and Lena Westlund, FAO <i>Facilitated discussion on needs for capacity development, in particular guidance material in relation to various thematic areas, actors, policy coherence, etc.</i>
15:45	Coffee break
16.00	Facilitated discussion (continued), including on steps to accommodate a human rights-based monitoring of the implementation of the Guidelines
16.30	Next steps
17.00	Closing remarks Manuel Barange, Director, FAO Fisheries and Aquaculture Department

Annex 3 – Opening statement

Opening address by Árni Mathiesen, ADG Fisheries and Aquaculture Department, FAO

First of all, a warm welcome to Rome! Many of you have travelled from afar and it is good to see you all here.

This workshop has been convened to explore how the human rights-based approach (HRBA) can and should be used in the context of securing sustainable small-scale fisheries. As you know, the Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, also known as the SSF Guidelines, were endorsed by the FAO Committee on Fisheries (COFI) in Rome in June 2014. These guidelines are based on international human rights standards and their objectives should be achieved through the human rights-based approach – HRBA. Using a HRBA is something new in fisheries and should not be confused with a rights-based approach (RBA) in a fisheries management context. RBA and HRBA clearly come from different directions – the first as a management and/or economic model to sustainable use of fisheries resources and the second as a method that makes human rights, particularly those of vulnerable and marginalized groups, measurements of progress in fisheries governance and development.

The HRBA is holistic, addressing fisheries sustainability and management, social and economic development in parallel, and process is a key dimension. The HRBA seeks to ensure the inclusion and participation of small-scale fisheries actors in transparent and accountable decision-making processes. It is people-focused and puts particular emphasis on marginalized and vulnerable groups. Empowerment and capacity development are required to help small-scale fisheries actors claim their rights and states and non-state actors to meet their duties, remembering that rights and responsibilities come together. By applying the human rights principles contained in the SSF Guidelines, we will also be able to make progress towards achieving the SDGs.

While the HRBA has been recognized and used – by FAO and others – in other sectors, we still need to develop evidence-based guidance for how to apply the HRBA in the implementation and monitoring of the SSF Guidelines. For us, this is a learning process and we are counting on your expertise and active participation in this workshop to help us in this endeavour.

We are therefore here to discuss and share experiences with a view to developing recommendations for how a human rights-based process can and needs to be supported in the small-scale fisheries sector. In particular, we would like to better understand how we as FAO can support the application of the HRBA in SSF Guidelines implementation and monitoring: What guidance material is needed and for whom?

I would like to take this opportunity to thank Norway for its support for the implementation of the SSF Guidelines, including for this workshop. We also have many other partners and I would like to mention IFAD, which continues to provide support in particular for CSO involvement.

Let me close these opening remarks in wishing you all a fruitful workshop that will help ensure that the SSF Guidelines do not remain only an encouraging piece of paper, but actually have an impact at the community level, particularly for the most vulnerable and marginalized, who are also among the poorest and most food-insecure populations.

Thank you all for your attention – I wish you a successful workshop!

Annex 4 – Working group distribution

Group 1	Group 2	Group 3
<p>Members:</p> <ol style="list-style-type: none"> 1. ALCANTARA Levinson 2. SHAPIRO Melissa 3. CHARLES Anthony 4. FERREIRO Pedro 5. JENTOFT Svein 6. LUKANGA Editrudith 7. SONG Andrew 8. STEINBACH Dave 9. MANUEL Marianne 10. PUIHAI Watson 	<p>Members:</p> <ol style="list-style-type: none"> 1. ALLISON Edward 2. BERGE Gunnvor 3. FINKBEINER Elena 4. JEUGUE DOUNGUE Martial 5. MERLO Benedetta 6. MBZAIRA Christopher 7. MONIAGA Sandra 8. NUILA Andrea 9. OGNIBENE Lara 10. SOLIMAN Adam 11. WILLMANN Rolf 	<p>Members:</p> <ol style="list-style-type: none"> 1. BAYANG Manja 2. FERNANDEZ ROJAS Victor 3. MATHEW Sebastian 4. MORI Stefano 5. NURUZZAMAN Mohammad 6. PHILLIPS Terrence 7. PICTOU Sherry 8. SUNDE Jacqueline 9. TORELL Magnus 10. WINDFUHR Michael

Annex 5 – Working group results

Thematic Session 1: HRBA in the context of responsible governance of tenure and resource management (Chapter 5 of the SSF Guidelines)

WHERE DO WE WANT TO BE?	WHY ARE WE NOT THERE?	HOW TO ADDRESS THIS?	GAPS	COMMENTS
<ul style="list-style-type: none"> SSF communities no longer insecure and poor; legally recognized as owners of resources and able to manage their own future; better livelihoods, better participation; free of insecurity; inclusivity; values and knowledge of fishers respected. Global effort to reallocate fishing rights in light of HRBA (favouring SSF among other things): fishers seen as people with human rights, not just producers. Governance structures that recognize customary rights and rights to an adequate standard of living; tenure upheld, recognized and protected for the most marginalized groups. Inclusion of vulnerable fishers, including migrant fishers; social protection for fishworkers. 	<ul style="list-style-type: none"> Fisher contribution to society is not generally understood (perhaps especially in the North), so requirements for their security are not understood. Relationship between poverty and capability to escape poverty through resource access; policy-makers may not understand priorities of fishing communities – tenure rights are especially crucial; communities may lack agency; vulnerability. Determining whose tenure is to be upheld, who has preferential access, when many groups can make claims – whose human rights matter most? Too many economic interests – states are unwilling to recognize communities and lose control over resources. Tension within industrial and commercial sector; power imbalances; difference between formal and informal; differences in financial returns; financial imbalances; even mobilized communities not necessarily heard; sectoral silos, when livelihoods are actually more diverse, rather than household or community perspectives. 	<p style="text-align: center;">GROUP 1</p> <ul style="list-style-type: none"> Empowerment; organize SSF; strengthen organizations. Governance; build stronger institutions, which leads to policy change; capacity building for front-line service providers in government. Change attitudes; fishing rights are also human rights; “women’s rights are also human rights”. Could start with concrete change, then change attitudes. Info-sharing. FAO could have larger official meetings in countries, with governments AND fishers, CSOs, etc.; this could then be a baseline for further work and for accountability. Such meetings need to be held by FAO (and not a national CSO) to give them an international (formal) tone; CSOs can help with deciding who should be there. National action plans, e.g. through SEAFDEC; in Costa Rica and Indonesia. 	<ul style="list-style-type: none"> Research gaps need filling; needs to be a database on communal versus other arrangements in fishing grounds around the world; need for better understanding of traditional management practices and where they exist. Priorities/ordering of the steps needed to create change; what steps and who should do them will vary from place to place. Guidelines are addressed to states; states need political will, and understanding too; awareness raising of all actors about the Guidelines; user-friendly info; fishers need to be included; e.g. Solomon Islands: managers not aware of HRBA; sounds noble – “we don’t call it human rights, but it is incorporated”. Guidelines and HRBA may need promotion from outside individual countries (in Pacific Islands) – countries might need regional push. Governments lack memory and they change staff over time, so information needs to be repeated. Who should carry out capacity building in government? 	<ul style="list-style-type: none"> Language is important; tenure rights recognized, not given or granted; that’s why this fits into human rights framework; however, sometimes there is a need for tenure right design and granting (e.g. agrarian reform). Path dependency – no way back from allocating rights? Criticism of ITQs; privatization; eviction; loss of only livelihood; power imbalances; land grabbing.

WHERE DO WE WANT TO BE?	WHY ARE WE NOT THERE?	HOW TO ADDRESS THIS?	GAPS	COMMENTS
	<ul style="list-style-type: none"> Lack of policy coherence; need combination of needs-based and rights-based approach. Politics within the sector – divisions among SSF; some small-scale fisheries have grown into large-scale fisheries. Permanent fishing rights already allocated without consideration for human rights. Patriarchy – fisheries thought of as a male domain, with major role of women neglected; full value chain neglected (where women are especially present). 	<ul style="list-style-type: none"> Determine how the HRBA helps us progress with SSF Guidelines, governance changes, empowerment, etc.; implementing paragraphs of Guidelines involves basis for what has been argued for decades. No need to actually refer to the HRBA – it's already covered in the language of the Guidelines; provides moral force, but nothing new; not an entry point in a governance process; SDGs cover this ground and have universality – they are best entry point. 	<ul style="list-style-type: none"> Since this is about political will: broad societal support is needed to move forward, to get states to act. 	
GROUP 2				
WHERE DO WE WANT TO BE?	WHY ARE WE NOT THERE?	HOW TO ADDRESS THIS?	WHO ARE THE KEY PLAYERS?	WHAT ARE THE CAPACITY GAPS AND REQUIRED SUPPORT/ GUIDANCE?
Secure rights based on customary tenure to land and forest	Coastal zone regulations disallow secure tenure rights; other powerful interests engaged in land grabbing			Role of FAO: Keep FAO as normative and knowledge-producing institution; increase awareness of who people are (not just how many) to establish baseline and help prioritize action; account for plurality of perceptions and definitions (i.e. human rights and property rights); provide definitional clarity; revisit existing tools that have been developed in other sectors
SSF Guidelines to be mandatory not voluntary for national governments; quota system redesigned to be socially acceptable; actor-oriented policies	Not stipulated in Guidelines to be mandatory; stakeholder-oriented policies reproduce power relations			

WHERE DO WE WANT TO BE?	WHY ARE WE NOT THERE?	HOW TO ADDRESS THIS?	WHO ARE THE KEY PLAYERS?	WHAT ARE THE CAPACITY GAPS AND REQUIRED SUPPORT/ GUIDANCE?
<p>Decisions made on the basis of knowledge and ethics – human rights represent an evolving set of ethics and are not necessarily inclusive of all existing or potential ethical standards</p> <p>Access and tenure of fisheries; Guidelines represented in legal framework and integrated into constitutional rights; fisheries mobilized and empowered to achieve sustainability</p>	<p>Governments do not enforce recognized rights; private interests can corrupt or usurp duty bearers' power; HRBA is not only a legal issue; leaders not held accountable; responsibility relegated to others</p> <p>Lack of knowledge of rights; inequality; states don't comply; weak legal systems; private interests above public; many people do not see themselves in context of human rights; tension between economic, cultural and social rights</p>	<p>Define who is the duty bearer and who is the right holder.</p>		
<p>Fishers taking charge of their affairs; fishers able to influence decision-making processes that affect their practices; bottom-up approaches to fisheries government; customary systems</p>	<p>Lack of knowledge of their rights; illiteracy</p>	<p>Raise awareness and build capacity; literacy development</p>		
<p>Guidelines to be a practical and theoretical guide; increased practicality – addressing HOW customary rights can be formally recognized; learning from land ethics and past experiences</p>	<p>More research of applications of guidelines needed</p>			
<p>Enjoyment of rights and sustainability by resource users/ owners, consumers, environment</p>	<p>Authoritarian government; retroactive accountability of government; issue of corruption; issues of scale; differential impacts of IUU fishing; definitions of small versus industrial sectors; who is making decisions about tenure rights; sectoral incongruence in government agencies and responsibilities especially with regards to land versus water tenure; deficit of authorities in fisheries agencies; remedies for past violations</p>	<p>Affirmative actions to address existing inequalities or injustices and power relations</p>		

WHERE DO WE WANT TO BE?	WHY ARE WE NOT THERE?	HOW TO ADDRESS THIS?	WHO ARE THE KEY PLAYERS?	WHAT ARE THE CAPACITY GAPS AND REQUIRED SUPPORT/ GUIDANCE?
<p>Migrant fishers and people without tenure having safe, dignified and enjoyable lives as well</p>	<p>Historical link of tenure rights and human rights; conflation of human rights with property rights; largely seen as IUU fishing; hostile perception of mobile and migratory lifestyles</p>	<p>Better understanding of importance of migratory and mobile sector</p>		
<p>National policy well-designed to increase access of SSF to tenure and rights</p>	<p>Lack of transparency about national policies causing conflict and competition between SSF; difficult for SSF to make their voices heard concerning their rights to tenure and resources</p>			
<p>Fishers and fishing communities politically empowered to be central actors in governance of their resources</p>	<p>Elite capture of governance processes and benefits from existing local inequalities within small-scale sector</p>			
GROUP 3				
<ul style="list-style-type: none"> Recognition of secure tenure rights to land and other natural resources; recognition of diverse socio-legal, cultural knowledge systems – particularly of indigenous peoples' rights Transparency and accountability in the governance of tenure 	<ul style="list-style-type: none"> Dominance of statutory approach in governance of tenure at the cost of customary rules; intolerance to diversity of views and prominence of market-driven approach to governance of tenure Many tenure rights not formally recognized by the state even if the community has legitimate resource management systems; determining how to reconcile legality and legitimacy from the state and community perspectives 	<ul style="list-style-type: none"> Fair process of recognition of legitimate tenure rights Develop appropriate methodology on how to recognize diverse tenure rights and documentation; also grievance mechanisms in the recognition process Indigenous peoples (IP) and local communities need access to administrative justice; participation/transparency in decision-making – how interests are weighed 	<ul style="list-style-type: none"> Affected people: SSF communities and their organizations Civil society support groups, including lawyer groups, surveyors, etc., supporting self-organizing communities to ensure recognition; develop methodology Independent research institutions and capacity – reliable data Coordination with international groups on IP, food, etc. 	<ul style="list-style-type: none"> Accessible resources/materials that highlight gender equality, customary systems of law and how they should be protected Guidance for communities – complaint mechanism in the context of customary distribution of resources (in cases of discrimination, for example) Methodologies for the recognition of tenure rights

WHERE DO WE WANT TO BE?	WHY ARE WE NOT THERE?	HOW TO ADDRESS THIS?	WHO ARE THE KEY PLAYERS?	WHAT ARE THE CAPACITY GAPS AND REQUIRED SUPPORT/ GUIDANCE?
	<ul style="list-style-type: none"> • Many states do not recognize the rights of indigenous peoples over their resources; even where there are laws that protect IP, actual implementation/interpretation may be a problem; asking IP to tick a box • Asymmetries in information, skills and capacities; lack of political will • Resource constraints and political priorities • Low level of support from CSOs and academics • Shrinking democratic/political space where civil society groups can express their views 	<ul style="list-style-type: none"> • Identification of stakeholders, assessment of their capacity; the state as well as right holders; awareness of the benefits and what it means to their livelihoods; how to participate • Context-sensitive approaches; participatory and conflict-resolution processes • Balancing various interests and policies; in some contexts, framing human rights claims in terms of constitutional rights 		

Thematic Session 2: HRBA in the context of social development, employment and decent work (Chapter 6 of the SSF Guidelines)

WHERE DO WE WANT TO BE?	WHY ARE WE NOT THERE?	HOW TO ADDRESS THIS?	WHO ARE THE KEY PLAYERS?	WHAT ARE THE CAPACITY GAPS AND REQUIRED SUPPORT/ GUIDANCE?
GROUP 1				
	Structural barriers which marginalize and impoverish people: class, power, politics, lack of financial support	Need to use HRBA as a "watershed" to galvanize support for implementing SSF Guidelines; SDGs can be an entry point – cross-cutting issue with Leave No One Behind equity as fundamental underlying principle	FAO can play a role in driving HRBA within national actions (through SDG process? Or sectoral action?).	<ul style="list-style-type: none"> Current gap in strategic guidance/implementation of SSF Guidelines FAO can show how HRBA and SDGs work within EAF
	<p>Fisheries legislation and fisheries management legislation/practice can violate human rights → regulation can "take food out of the mouth" of SSF by restricting access; there may also be gaps in legislation (e.g. labour)</p> <p>Examples: no-take zones (South African example), decisions about allocating resource access, market-based approaches (e.g. ITQs)</p>	<ul style="list-style-type: none"> Need to look at other sources and/or departments of legislation that could be relevant; examples: agriculture, forestry, oil & gas Human rights law can be used to fill gaps where existing legislation falls short 		
	Informality of many SSF; limited access to social protection, tenure, etc.	<ul style="list-style-type: none"> Link with VGGT to support tenure claims for SSF Need to ensure "informal" is differentiated from "illegal" Social protection can be applied to fisheries sector to meet unique needs of fishers 	<ul style="list-style-type: none"> Communities (importance of communal rights) Individuals across the fisheries value chain Ecosystems and social systems equally important 	<p>Determining how rights, social protection systems, etc. can be applied to people who are self-employed or work informally; guidance from other sectors (possibly agriculture) would be useful</p>
	<p>Cross-cutting issues that are not adequately addressed:</p> <ul style="list-style-type: none"> Ageing Youth in fisheries Migration 	Promote learning within communities, intergenerational learning (particularly in indigenous communities), governance institutions for knowledge retention within government	<ul style="list-style-type: none"> Communities Ministries and Departments Academic institutions 	<ul style="list-style-type: none"> Knowledge retention in institutional contexts – transfers, retirement within Ministries, Departments, CSOs Bridging knowledge with academic community (but avoiding "solutions" not grounded in local realities)

WHERE DO WE WANT TO BE?	WHY ARE WE NOT THERE?	HOW TO ADDRESS THIS?	WHO ARE THE KEY PLAYERS?	WHAT ARE THE CAPACITY GAPS AND REQUIRED SUPPORT/ GUIDANCE?
GROUP 2				
Employment standards	<ul style="list-style-type: none"> Lack of appropriate labour standards for SSF Existing standards not applicable in SSF 	<ul style="list-style-type: none"> Learn from experiences in the agriculture sector Define a process at the community level on what are acceptable working conditions (example from Alaska) Enforce employment standards by the state, local chiefs, etc. 	<ul style="list-style-type: none"> Boat owners in SSF: license holders, buyers; SSF communities Local civil society organizations; professional organizations, including women's organizations States (in particular for non-organized SSF actors); including at decentralized level Market to incentivize labour standards (B2B, retailers, consumers) Extraterritorial obligations 	<ul style="list-style-type: none"> Identification of relevant tools that are available Case study on identification of community standards Case studies on OSH issues Engagement with buyers in relation to SSF
Criminality	<ul style="list-style-type: none"> Inability of the state to guarantee safety and property Fishing crimes not fully defined 	<ul style="list-style-type: none"> FAO coordination with other relevant organizations, e.g. INTERPOL Better definition of fishing crimes Coherence between various FAO instruments (e.g. PSMA, SSF Guidelines) 		
Decent income				
Social protection Migrant fishers	<ul style="list-style-type: none"> Insufficient understanding of the dimension and nature of the issue Corruption at governance level Lack of information at the community level on implications of migration Migrant fishers form part of the most marginalized and vulnerable groups Potential tradeoffs between short-term interventions (e.g. putting them at risk) and long-term improvements Lack of organization and lobby support as a group 	<ul style="list-style-type: none"> Illustrate and raise awareness about the situation Provide protection as human beings Make literature on human rights of stateless people available that could be explored in terms of applicability for SSF Bilateral agreements 	<ul style="list-style-type: none"> Grassroots organizations, NGOs National/regional human rights institutions Regional organizations IOM Governments: bilateral, multilateral Apostleship of the Sea 	<ul style="list-style-type: none"> Contribute to addressing the knowledge gap Support development of guidance on international migrants, including refugees

WHERE DO WE WANT TO BE?	WHY ARE WE NOT THERE?	HOW TO ADDRESS THIS?	WHO ARE THE KEY PLAYERS?	WHAT ARE THE CAPACITY GAPS AND REQUIRED SUPPORT/ GUIDANCE?
Gender	<ul style="list-style-type: none"> • Prevalence of traditional gender roles • Resistance in rural areas in relation to changing gender dynamics • Male-dominated participation in decision-making and professional organizations • Lack of knowledge about women's rights, including their rights in relation to fisheries; limited acknowledgement of their role 	<ul style="list-style-type: none"> • Awareness raising and education, including good examples to be identified • Empowering role models and champions • Establishing spaces for women in SSF to exchange experiences and develop solutions • Making guidance material from other sectors available • FAO developing guidance on gender in relation to the SSF Guidelines • Taking a food systems perspective to strengthen the role of women in SSF 	SSF Communities	
Access to services (e.g. health, education, financial services)				
GROUP 3				
Social development policies responsive to the needs and human rights of fisher communities	<ul style="list-style-type: none"> • Lack of sector-specific policies that respond to the needs of fisher communities • Lack of political will • Absence of intersectoral coordination • "Recognition by assimilation" 	<ul style="list-style-type: none"> • Participatory policy-making • Developing organizational capacity 	State; SSF communities; national human rights institutions; parliaments; international human rights monitoring bodies and procedures; private sector	<ul style="list-style-type: none"> • Awareness raising for stakeholders (especially fishers and politicians – to build political will); issue of power • Strengthened capacity of IP to voice their needs • Additional tracking and records (e.g. Universal Periodic Review reports on the right to food; CEDAW shadow report) • Monitoring mechanism for the implementation of SSF Guidelines • Organizing fishers at national/ regional level (trade unions, cooperatives, credit unions)

WHERE DO WE WANT TO BE?	WHY ARE WE NOT THERE?	HOW TO ADDRESS THIS?	WHO ARE THE KEY PLAYERS?	WHAT ARE THE CAPACITY GAPS AND REQUIRED SUPPORT/ GUIDANCE?
<p>SSF communities, especially migrant workers, women, youth and other vulnerable groups, are protected against violence and fraud</p> <p>Decent work and fishers' safety at sea</p>	<ul style="list-style-type: none"> • Ineffective community engagement • Statistical data do not cover vulnerable groups (cross-cutting issue) • Uncontrolled recruitment practices taking advantage of marginalized groups (internal and international migrants) • Overregulation • Issues of informality 	<ul style="list-style-type: none"> • Bilateral agreement to grant migrant workers access to remedies and protect workers' rights • Occupational safety and health • Extraterritorial issue of application 		
<p>Universal and sectoral social security policies responding to the needs and human rights of SSF communities</p>	<p>Do not reflect the specificities of the sector</p>	<p>Recognition and/or registration of communities</p>	<ul style="list-style-type: none"> • Civil society raising awareness of vulnerable groups on existing policies and loopholes • Sensitizing governmental institutions • Support from civil society • Academics working with civil society to document best practices 	

Thematic Session 3: HRBA in the context of value chains, post-harvest and trade (Chapter 7 of the SSF Guidelines)

HOW TO ADDRESS THIS?	WHO ARE THE KEY PLAYERS?	WHAT ARE THE CAPACITY GAPS AND REQUIRED SUPPORT/ GUIDANCE?
<ul style="list-style-type: none"> Collective bargaining: bargaining power of fisheries can be enhanced by organizational and legal methods For example: cooperatives and supportive structures to negotiate prices on behalf of fishers and assume the position otherwise occupied by persons with greater power and those in management positions Value addition, infrastructure, access control and relevant regulations, price controls (see Rockdale Principles on co-management) Enabling legislation to implement cooperative infrastructure→Interpret cooperatives broadly and with flexibility – create an organizational design that achieves these principles 	<p style="text-align: center;">GROUP 1</p> <p>NGOs and governments can create cooperatives from the outside.</p>	<ul style="list-style-type: none"> Prices and price-setting: "poverty trap" describes the situation when a transaction partner is the weaker power (power imbalance creates a dependency relationship) Cooperatives cannot always deliver due to passive membership, power dynamics, lack of enabling legislation, lack of understanding regarding the purpose; short life span of several cooperatives creates impression that the model is not viable; need for additional support and education, including from FAO, CSOs and academia Consider where cooperatives will thrive (areas), and the national frameworks and platforms already in existence, to ensure that models are compatible Consider the extent to which cooperatives (horizontal integration) can support ecosystem management
<ul style="list-style-type: none"> Community support and participation in implementation NGOs to provide tools and advice to supply chain companies that allow for direct engagement with SSF Guidelines and implementation at all levels of the supply chain 	<p>NGOs, FAO, seafood buyers and retailers must adhere to guideline principles and support implementation.</p>	<ul style="list-style-type: none"> FAO needs to support development of a supply chain framework in the context of the Guidelines; private foundations should provide financial support Lack of awareness on implementation strategies for guidelines
<p>Think broadly about supply chains and promote greater integration.</p>	<ul style="list-style-type: none"> FAO can lead the integration, similar to EAF with respect to SDGs and HRBA. FAO perceives implementation of EAF as an integrated endeavour; this does not always translate beyond FAO. FAO should demonstrate how this aspirational, integrated approach actually works for implementation (i.e. training courses, publications). EAF and SSF Guidelines should also be integrated in practice. How can EAF be implemented in a manner consistent with the SSF Guidelines and its HRBA framework? Could the EAF help strengthen the SSF provisions impacting supply chains? 	<ul style="list-style-type: none"> FAO and states must institutionalize a shift from silos to greater integration Governments need to understand effective HRBA implementation

HOW TO ADDRESS THIS?	WHO ARE THE KEY PLAYERS?	WHAT ARE THE CAPACITY GAPS AND REQUIRED SUPPORT/ GUIDANCE?
<ul style="list-style-type: none"> Holistic perspective: add additional nuance when applying guidelines to supply chains; focus on improving market access beyond capture to other commodities Recognize intercountry vs intracountry dynamics with respect to support infrastructure applied to supply chains. How do these concepts of equity and benefit sharing fit in with HRBA? 	<ul style="list-style-type: none"> Government and weak governance contexts; NGOs and FAO can provide support, but that support may be isolated and short-term; there are systemic and political interventions that can best be addressed through a ministerial process Role of academics and researchers: may help to understand the application of standards and systemic issues 	<ul style="list-style-type: none"> Risk of distortional market effects in the context of certifications; creating privilege for markets that already have increased mobility and adaptability. Promoting safe social standards in one locale may perpetuate imbalances in other places. There is a distinction between what the community can do to promote its interests and what the state can do to recognize and promote rights. External certification standards and some labour standards may not be tools that a community can use to promote its interests.
<ul style="list-style-type: none"> NGOs stand to serve as a liaison between the government and the community, and therefore have the power and responsibility to ensure the participation of women in decision-making processes (women should serve as representatives, be present at community meetings, etc.). NGOs should lobby the government to address gaps that are particularly harmful to women in the supply chain. Improving coordination and collaboration among NGOs and academics – academics must recognize a responsibility to work outside formal networks, foster relationships with NGOs, and promote research concepts in which NGOs could participate (e.g. World Fisheries) 	<p>Women, communities, NGOs, government, academics</p>	<ul style="list-style-type: none"> Lack of information on the role of women in the value chain – their contribution, their benefits; academics and activists should collaborate to share information on these issues and better realize the situation on the ground Potential for FAO to hold a national meeting on gender in several regions; government does not always understand security, fisheries, or the steps and stakeholders in the supply chain
<p>Recognizing international cross-border fish trade and simultaneous flow of capital and power relationships</p>	<ul style="list-style-type: none"> Fishing and processing companies should seek to work with sustainable fishers. Fishers and fisher groups should become more aware of their position in the supply chain and adopt a long-term view rather than solely focusing on short-term profits. CSOs and academics should provide critical thinking and promote discourse on value chains and awareness raising. Governments must negotiate for fair international trade deals favourable to fisheries and enact legislation that will protect and advance the values of SSF; this includes all levels of government. 	<p>FAO should encourage states to provide an equal playing field and advocate for the interests of SSF.</p>
<ul style="list-style-type: none"> Need for greater recognition of right holders and also duty bearers, depending on positioning in the value chain Equitable oversight from regulators who promote inclusive policies that do not exacerbate existing inequalities Use HRBA to promote concept of communities and collective rights 	<p>Participants in SSF, regulators (independent bodies, including certifying bodies, and government), consumers</p>	<ul style="list-style-type: none"> Consumer level: information is power, so use the media and the information at its disposal to lift the curtain between consumer and producer Collection of data and information on the role of various actors in the value chain Participants in SSF will benefit from cooperatives, extension services and skill sharing to promote equality and inclusivity

HOW TO ADDRESS THIS?	WHO ARE THE KEY PLAYERS?	WHAT ARE THE CAPACITY GAPS AND REQUIRED SUPPORT/ GUIDANCE?
GROUP 2		
<ul style="list-style-type: none"> • Looking at market power dynamics for both global and local supply chains • Better understanding internal market dynamics • Understanding the legal framework under which small-scale fisheries operate • Analysis of gaps in infrastructure • Access to processing infrastructure, technology and resources • Understanding key collective action issues to remove barriers and increase access to enabling conditions • Enabling increased organization of producers and women • States supporting autonomous organization of fisherfolk • Awareness of the role of women in the sector and the extent of their organization and power • Certification (in select cases) • Community-supported fisheries (CSFs), in order to take charge of local markets • Policy coherence and law (trade versus local livelihoods and food security) • Addressing food safety and risk mitigation, especially in the context of export; also relevant in terms of ensuring safety for local markets • States held accountable for ensuring equal access to benefits • States held accountable for fisher rights-focused enforcement 	<ul style="list-style-type: none"> • Women are an important entry point to the sector • International and national corporations – their roles and responsibilities • States in relation to public procurement; Ministries: Infrastructure, Commerce, Rural Development, Tourism, Research and Technology, Public Information, Justice • Chambers of commerce • NGO and CSO members (including fishworker organizations) • Certification programmes (Fair Trade, MSC, etc.) • Producer organizations, unions, cooperatives, federations • UN Women • Indigenous communities, indigenous women • Migrant fishers • Consumer organizations • Intermediaries • External watch agencies, NHRIs, ombudspersons 	<ul style="list-style-type: none"> • Direct access to market information for small-scale fisheries actors • Information gaps upwards in the market chain • Information gaps about the supply side of the sector – addressed through consumer education • Increased information on access to markets for small producers • Lessons learned, best practices from other contexts (geographies and sectors) • Collective action problems and lack of governmental political will for enabling and supporting collective action • Leadership development and training • Capacity building, awareness raising and knowledge sharing at the local level; popular education led by fisherfolk, women, indigenous communities • Vocational training for people with disabilities and other vulnerable populations among fisherfolk; FAO bringing attention to other agencies who can take action • Positive feedback from consumers and post-harvest sector to encourage sustainable use of resources by producers • Acknowledge and respect high level of fisherfolk knowledge; be cognizant of patronizing fisherfolk during capacity building, knowledge dissemination, leadership training processes • Take responsibility first (i.e. the state) to provide a good example, minimize risk, and enable fair processes

WHO NEEDS TO DO WHAT SUPPORT AND GUIDANCE?	AWARENESS AND CAPACITY GAPS
<p style="text-align: center;">GROUP 3</p> <ul style="list-style-type: none"> • Focus specifically on small-scale marine and inland fishing communities along the value chain with a special emphasis on vulnerable and marginalized groups. (All actors) • Understand power relations (including gender) along the value chain, especially to assist SSF communities in dealing with predatory intermediaries and to ensure that trade benefits flow adequately to SSF communities. (Community-based researchers in partnership with CSOs/government agencies) • Promote equity along the value chain using the HRBA. (State and non-state actors, CSOs) • Promote market awareness among fisherfolk/fish farmers. (State) • Add value to fish and fish products (State and non-state actors); reduce post-harvest waste; promote the utilization of low-risk, low-cost, high-acceptance fish for domestic consumption, especially to improve nutritional security of women and children (e.g. mola in Bangladesh). (State) • Implement specific measures to eliminate discrimination against women at all levels. (State) • Address debt bondage of women in post-harvest activities. (Microcredit institutions, banks, state agencies, etc.) • Protect health of workers in the post-harvest sector (e.g. improved ovens for smoking fish). • Uphold the principle of stakeholder responsibility along the value chain for conservation and management, food safety, etc. (Fishers, fishworkers, wholesalers and retail traders, consumers) 	<ul style="list-style-type: none"> • Promote community and consumer awareness on the nutritional aspects of fish, fish safety, and working and living conditions of SSF communities. • Connect with international food movements for better recognition of fish produced by SSF. • Encourage community-based research to help communities access alternative markets for food. • Develop negotiation capacity of SSF communities to engage effectively in marketing arrangements. • Hold cooperatives and other community-based institutions accountable to human rights principles and standards. • Recognize the role of fish sourced from SSF in social protection programmes (e.g. procuring fish for hospital meals and school feeding in South Africa). • Protect the interests of small-scale fishing communities through state procurement of fish (e.g. Supply Institutional Programme [Costa Rica] for preferential procurement of fish from SSF communities). • Develop the negotiation capacity of women. (State and non-state actors) • Undertake research on how organized women are along the value chain. (State) • Develop diagnostic and analytical tools to identify gaps and understand the multifaceted issues (power relations and market-related dynamics, access to credit, organizational capacity, etc.) regarding value chain development in SSF and HRBA. (UN agencies, including FAO) • Make adequate funds available to promote the HRBA in relation to post-harvest activities.

Thematic Session 4: HRBA in the context of disaster risks and climate change (Chapter 9 of the SSF Guidelines)

WHERE DO WE WANT TO BE?	WHY ARE WE NOT THERE?	HOW TO ADDRESS THIS?	WHO ARE THE KEY PLAYERS?	WHAT ARE THE CAPACITY GAPS AND REQUIRED SUPPORT/GUIDANCE?
GROUP 1				
Governments implementing adequate safeguards for disaster (prior to need)	Governance challenges (failure of/ inappropriate governance structures during response)	Systematic analysis of the extent to which human rights are taken into account in climate change interventions	States (including preparation of a fisheries chapter within a national action programme in consultation with local communities)	Fisheries-specific technical guidelines on disaster risk and climate change (e.g. LEGS)
Safeguards implemented for climate change and disaster preparedness (need to determine what it means to be prepared)	Root causes not being addressed	Create an approach toward long-term and short-term impacts/needs/responses. Recognize the impacts of sudden- and slow-onset disasters with full and effective participation of fishing communities.	Local level	Documenting successful adaptation measures that are bottom-up and inclusive of local programmes and processes
Mitigation preparedness and response mechanisms that take human rights into account and "rebuild better" (applying to all principles of human rights)	Disaster responses becoming an excuse to further special interests of elites; vulnerability	Evaluation of human rights principles for disaster risk response planning	Research on metrics or methodological guidelines	Looking at existing guidance on aquaculture and fisheries-related material on disaster preparedness from a HRBA perspective
Issues of migration addressed in response to climate change and disasters	No legal recognition of climate refugees	Creation of a legal framework		Right to life vs right to food and access
IDP – internally displaced people (circumstantial or state-induced)	Link of causes to migration not understood or attributed to relevant processes			
Community-led prioritization of rights and responsibilities	Community and state interests at odds	Understanding priorities in a local context	Researchers (academia, independent)	A priori preparation for moral dilemmas in the context of climate change and disaster risks

WHERE DO WE WANT TO BE?	WHY ARE WE NOT THERE?	HOW TO ADDRESS THIS?	WHO ARE THE KEY PLAYERS?	WHAT ARE THE CAPACITY GAPS AND REQUIRED SUPPORT/GUIDANCE?
GROUP 2				
Examples: sudden-onset disasters	Weather-related environmental disturbances	<ul style="list-style-type: none"> • Disaster preparedness (LEGS principles) • Different approach • Affirmative action in SSF • Prioritizing most vulnerable • Regional emergency response programme • Cross-institutional coordination 	Communities as active agents	<ul style="list-style-type: none"> • No emergency plans in place • Principles easily get lost in emergency plan design • Unclear who does what (i.e. who is duty bearer) • Focus on needs assessment • Wrong response has devastating consequences • Role and capacity of local communities underestimated • Reconciling existing guidelines on disaster response • FAO guidance on response • Tradeoffs for human rights in responses on all scales • Using disasters for private benefits over SSF rights • Land grabbing • Safeguarding human rights for SSF • Better reporting of lessons learned • Capacity of lawyers in disaster response
Examples: slow-onset disasters	<ul style="list-style-type: none"> • Pollution • Movement of fish stock • Emergence of new fisheries • Sea level rise 	<ul style="list-style-type: none"> • Adaptation • Coastal management plans • Addressing tensions between rights and negotiations • Inclusion of fisheries resources • Compensation schemes • Flexible tenure rights 	Government institutions	<ul style="list-style-type: none"> • Determining who takes decisions • Determining the responsible party and holding them accountable • Guidelines bring moral attention; legal action is difficult • Determining how fisheries and communities are impacted by disaster; guidelines and examples of impact • HRBA not always sufficient in court cases • Making more use of traditional knowledge and local standards • Involving SSF in climate change-related human rights discussions

WHERE DO WE WANT TO BE?	WHY ARE WE NOT THERE?	HOW TO ADDRESS THIS?	WHO ARE THE KEY PLAYERS?	WHAT ARE THE CAPACITY GAPS AND REQUIRED SUPPORT/GUIDANCE?
Adaptation	Migration drivers	<ul style="list-style-type: none"> • Long-term vs short-term solutions • Causes conflict between different groups; competing rights • Allowing for migration • Ensuring burden is equitably shared by community 	Government has an obligation to support – not necessarily rehabilitation into fisheries	
GROUP 3				
VISION	CONSTRAINTS	HOW/WHO		
Inland and marine fisheries		<ul style="list-style-type: none"> • States to undertake studies that identify the drivers of climate change • Holistic analysis of impacts on women/gender/ethnic groups • NGOs/CBOs to undertake their own studies looking at these dynamics • States should take initiative to document and co-produce knowledge • FAO/donors/CSOs to take the lead in developing methodologies and guidance on how to ensure the co-production of knowledge 		
		<ul style="list-style-type: none"> • Climate change and tenure: ensure equitable outcomes • UNFCCC climate change adaptation funds to be made accessible to communities worldwide • FAO to lobby with UNFCCC to make sure the funds include SSF 		
	Prevalence of ignorance	<ul style="list-style-type: none"> • Protect SSF from disaster risks (right to life and security) 		
	Issues: sea level rise, resettlement	<ul style="list-style-type: none"> • States to develop policies regarding resettlements/redistribution of resources, focusing on most marginalized • Inform communities and peoples • Subsidies/remedies to compensate loss of resources and to enable access to new fishing grounds 		
		<ul style="list-style-type: none"> • States to set up institutional framework (with priorities identified) and to mobilize resources in full participation/consultation • CSOs to develop/implement tools and articulate change (e.g. Adaptation Rapid Institutional Analysis in the Caribbean) • FAO to develop guidance 		
		<ul style="list-style-type: none"> • ICT as an empowerment tool (HRBA) particularly in the context of climate change, early warning systems 		

VISION	CONSTRAINTS	HOW/WHO
		<ul style="list-style-type: none"> • Community-built models and draw scenarios exist, but funding does not – needs to be identified • Modelling scenarios are essential to anticipate impacts; initial question should be what species are likely to be available • But, the smaller the scale you're looking at, the more uncertainties you have • Adaptation processes need to look at resources, people and markets • Climate change is not all negative – determine how to balance this
		<ul style="list-style-type: none"> • Universal/holistic approach to fisheries dialogue with other sectors on impacts and adaptation • Community-based knowledge to be captured and built upon • Build capacity to respond to disaster risks (preparedness) and response and climate change • Determine how to bring tools to communities • Build resilient communities • Alternative activities • Policy change towards environment/management rather than being profit-driven
		<ul style="list-style-type: none"> • Extraction/mining companies – determine their accountability for action, and the extent of their responsibility beyond suspension of operations • Section 9.5 flagged for further exploration
		<ul style="list-style-type: none"> • E.g. SA Constitution mentions the need to balance between diverse human rights and show evidence that the least harmful decision has been taken and that the justice principle has been applied • Focus on most vulnerable groups • Independent arrangements to monitor these decisions (possibly with civil society taking this role); capacity building needed
		<ul style="list-style-type: none"> • Climate refugees/conservation refugees (from MPAs)/migrants – determine what is contributing to climate change and conflicts • FAO and others to develop guidance on legal implications from climate change/disasters; how to balance rights • Link to the climate justice movement
		<ul style="list-style-type: none"> • Raise awareness on human rights; assess the system in terms of its commitment
		<ul style="list-style-type: none"> • All stages are important – prevention, response and reconstruction (e.g. oil spill in Nigeria) • Access to justice/legal aid • Best practices developed and more information documented

Annex 6 – Background paper

EXPLORING THE HUMAN RIGHTS-BASED APPROACH TO THE IMPLEMENTATION OF THE VOLUNTARY GUIDELINES FOR SECURING SUSTAINABLE SMALL-SCALE FISHERIES IN THE CONTEXT OF FOOD SECURITY AND POVERTY ERADICATION

A background paper

1. INTRODUCTION

The Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication (SSF Guidelines) were endorsed on 14 June 2014 by the 31st Session of the FAO Committee on Fisheries (COFI). The SSF Guidelines provide a comprehensive framework for the governance of small-scale fisheries and their contribution to food security and eradication of poverty. They provide guidance to state and non-state actors for the development of policies, strategies and actions in small-scale fisheries concerning a wide range of issues in the sector.

The SSF Guidelines are based on internationally accepted human rights standards and are to be implemented in accordance with those standards. Their objectives are to be achieved through the promotion of a human rights-based approach (HRBA) that seeks to ensure the non-discriminatory empowerment and participation of small-scale fishing communities in transparent and accountable decision-making processes. While the HRBA has been widely recognized, particularly in the context of development cooperation, there is still limited experience in its practical application in the context of small-scale fisheries (SSF). The present paper, and the workshop to which it serves as background material, are part of the initial work at FAO on the HRBA in SSF.

The paper aims to explain and demonstrate what a HRBA means in relation to the various thematic areas and actors addressed in the SSF Guidelines. Using desk-based research, it seeks to highlight the human rights aspects of the Guidelines based on an analytical framework for the application of a HRBA, which considers human rights as goals, process principles and bases of claims, duties and responsibilities. The paper does not pretend to be comprehensive in its presentation and analysis of issues that lie at the intersection between human rights and fisheries. Neither does it offer ready-made solutions to human rights-related problems in small-scale fisheries. It rather clarifies conceptual issues, provides tailored examples and raises questions with a view to guiding discussions and inputs at the workshop. The outcome may then inform the development of guidance materials on the application of the HRBA in implementing and monitoring the SSF Guidelines.

The paper is divided into three main parts. The first part introduces the human rights components of the SSF Guidelines in the context of international human rights standards. The second part explains the emergence, meaning and implications of the HRBA in general and in the context of small-scale fisheries in particular. The third part introduces human rights issues in relation to the various thematic areas of the SSF Guidelines and then lays out some key challenges and steps in the implementation

of the HRBA in small-scale fisheries. A concluding section makes the case for the development of guidance materials on the application of the HRBA in implementing and monitoring the SSF Guidelines, and raises a series of questions for discussion in that respect.

2. HUMAN RIGHTS IN THE SSF GUIDELINES

The SSF Guidelines are the result of a number of years of inclusive consultations and intensive negotiations among various stakeholders at national, regional and international levels. They were endorsed by COFI, which is a global intergovernmental forum where major international fisheries and aquaculture problems and issues are examined and recommendations addressed to all relevant actors, in the presence of 147 Member States and a large number of observers, including civil society and non-governmental and regional organizations. It is the first international instrument exclusively addressing a wide range of issues relating to small-scale fisheries (SSF), including poverty eradication, food security and nutrition, resource management, governance of tenure, value chains and trade, social development and decent work, disaster risks and climate change, and gender equality.

The objectives of the SSF Guidelines include: supporting the progressive realization of the right to adequate food; contributing to the equitable socio-economic development of SSF communities and fishers; achieving the responsible management and conservation of fisheries resources; and providing guidance to the participatory development and implementation of pertinent policy, strategic and legal frameworks (Article 1.1).

The SSF Guidelines are based on international human rights standards, and should be interpreted and applied consistent with existing rights and obligations under national and international law, including voluntary instruments (Articles 3.1, 4.1). Their guiding principles include human rights and dignity, equality and non-discrimination, gender equality and equity, consultation and participation, rule of law, transparency, accountability, and respect of cultures.

Their objectives and broader normative context, as well as the sources of guidance for their interpretation and application, clearly show that the SSF Guidelines are grounded in and oriented towards the achievement of internationally accepted human rights standards. They are essentially an international instrument devoted to the human rights of small-scale fishers, fishworkers and communities. This is reflected even more clearly in the Guidelines' statement that their objectives are to be achieved through the promotion of a human rights-based approach, one that empowers small-scale fishing communities (including both men and women) to participate in decision-making processes and to assume responsibilities for sustainable use of fishery resources by placing emphasis on the needs of developing countries and the benefit of vulnerable and marginalized groups (Article 1.2). The SSF Guidelines are as much about the rights of people deriving their livelihoods from SSF as they are about the sustainable use of fisheries resources.

The SSF Guidelines recognize the diversity of actors in SSF. They address states; subregional, regional, international and intergovernmental organizations (IGOs); SSF actors (fishers, fishworkers, their communities, traditional and customary authorities, and related professional organizations and CSOs); the private sector; Non-governmental Organizations (NGOs); and research and academic institutions (Article 2.2). Considering the differing roles and responsibilities of these entities in the realization as well as impairment of human rights in SSF, it is essential to

understand what the HRBA means to the various actors in the context of the overall implementation of the SSF Guidelines as well as in relation to the different thematic areas they cover.

First of all, what are internationally accepted human rights standards?

Human rights are values of human dignity that aim to protect and advance the liberty, equality and well-being of individuals and/or groups of people. The philosophical, historical and cultural origins of human rights are the subject of a raging academic debate, which is beyond the scope of the present paper. Views range from the association of human rights with Western liberal ideas to the recognition of their multicultural foundations. Be this as it may, human rights have been upheld in diverse cultural contexts, leading to their recognition as inalienable universal values by the 1993 World Conference on Human Rights in Vienna, Austria.²

Despite the integrated understanding of human rights in earlier instruments such as the Universal Declaration of Human Rights (UDHR), later international legal developments followed the categories of civil and political (CP) rights, economic, social and cultural (ESC) rights, and collective rights. CP rights cover the right to life and physical integrity, the right to privacy and a fair trial, and the right to participate in civil and political life including freedoms of expression, association, assembly and the right to vote. ESC rights consist of the right to decent work; the right to an adequate standard of living including housing, food and water; and the rights to health, to education, to social security and to culture. Collective rights include the right to self-determination, indigenous peoples' rights, the right to development and environmental rights. This categorization of rights has ideological and hierarchical undercurrents that have been discredited over the years. Despite the comparative legal protection and judicial enforcement challenges faced by some groups of rights, especially those falling under ESC rights and collective rights, human rights are now widely recognized to be indivisible, interdependent and interrelated.³

The core international human rights instruments include:

International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), adopted in 12/12/1965 and entered into force on 04/01/1968. Monitoring body: Committee on the Elimination of Racial Discrimination.

International Covenant on Civil and Political Rights (ICCPR), adopted on 16/12/1966 and entered into force on 23/03/1976. Monitoring body: Human Rights Committee.

International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted on 16/12/1966 and entered into force on 03/01/1976. Monitoring body: Committee on Economic, Social and Cultural Rights.

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted on 18/12/1979 and entered into force on 03/09/1981. Monitoring body: Committee on the Elimination of Discrimination against Women.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), adopted on 10/12/1984 and entered into force on 26/06/1987. Monitoring body: Committee against Torture.

² See Vienna Declaration and Programme of Action, 12 July 1993, A/CONF.157/23.

³ Ibid.

[Convention on the Rights of the Child \(CRC\)](#), adopted on 20/11/1989 and entered into force on 02/09/1990. Monitoring body: Committee on the Rights of the Child.

[International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families \(ICMW\)](#), adopted on 18/12/1990 and entered into force on 01/07/2003. Monitoring body: Committee on Migrant Workers.

[International Convention for the Protection of All Persons from Enforced Disappearance \(CPED\)](#), adopted on 20/12/2006 and entered into force on 23/12/2010. Monitoring body: Committee on Enforced Disappearances.

[Convention on the Rights of Persons with Disabilities \(CRPD\)](#), adopted on 13/12/2006 and entered into force on 03/05/2008. Monitoring body: Committee on the Rights of Persons with Disabilities.

Some of the above treaties are supplemented by optional protocols that either deal with specific aspects of the rights or persons they cover, or that establish monitoring bodies. Each of the treaties has a committee of experts with a mandate to monitor their implementation by States Parties through the procedures of state reporting, individual/group complaints and/or investigations. All the core human rights treaties apply to small-scale fishers and fishworkers, either as individuals or as groups of people. The large number of conventions of the International Labour Organization (ILO) and the International Maritime Organization (IMO) also lay down human rights relating to work and employment. Many of these treaties assume formal employment relationships that may not be common in SSF, but at least the fundamental principles and rights at work relating to freedom of association, forced labour and child labour, and discrimination apply to all workers.⁴ Most of the fisheries-specific instruments⁵ apply to vessels that are bigger than the ones that are in prevalent use in SSF, but some of them may govern operators in SSF. The ILO Work in Fishing Convention, for example, principally applies to all fishers and all fishing vessels engaged in commercial fishing operations, which may include small-scale fishers/vessels depending on the definition accorded to the subsector in the national jurisdiction concerned. While the foregoing are legally binding treaties, there are also non-legally binding international human rights instruments that have significant importance to small-scale fishers, fishworkers and communities. The UDHR falls within this group of instruments, but many of its provisions form part of the binding customary international law, and it constitutes the international bill of rights together with the ICCPR and the ICESCR. Other soft-law

⁴ See: FAO. 2016. *Assessment of international labour standards that apply to rural employment*, by S. Yeshanew. Legal Paper 100. Rome. See also: FAO. 2016. *Scoping study on decent work and employment in fisheries and aquaculture: issues and actions for discussion and programming*. Rome.

⁵ For example, see the ILO Work in Fishing Convention, 2007 (No. 188); the IMO International Convention on Standards of Training, Certification and Watch keeping for Fishing Vessel Personnel, 1995; the Cape Town Agreement of 2012 on the Implementation of the Provisions of the Torremolinos Protocol of 1993 relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977. For relevant non-legally binding instruments, see FAO/ILO/IMO, Code of Safety for Fishermen and Fishing Vessels, Parts A and B (revised 2005); and the Voluntary Guidelines for the Design, Construction and Equipment of Small Fishing Vessels (2005).

instruments include the 1986 UN Declaration on the Right to Development and the 2007 UN Declaration on the Rights of Indigenous Peoples (UNDRIP).

Among the aforementioned instruments, the SSF Guidelines specifically refer to the ICESCR, the CEDAW, the CRC, the ILO and IMO instruments on work in fishing and sea safety, the UNDRIP, and the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities in the different issue areas that they cover.

In addition to the international human rights system within the aegis of the UN, there are also regional human rights systems that are located within intergovernmental arrangements in Europe, the Americas and Africa. The regional systems also have human rights instruments that reflect and adapt the international human rights instruments to regional specificities and establish monitoring bodies. The founding instruments of these human rights systems are: the European Convention for the Protection of Human Rights and Fundamental Freedoms (adopted on 4/11/1950 and entered into force on 3/09/1953) that is supervised by the European Court of Human Rights; the American Convention on Human Rights (adopted on 22/11/1969 and entered into force on 18/07/1978) that is monitored by the Inter-American Commission on Human Rights and the Inter-American Court on Human Rights; and the African Charter on Human and Peoples' Rights (adopted on 28/06/1981 and entered into force on 21/10/1986) that is supervised by the African Commission on Human and Peoples' Rights and the African Court on Human and Peoples' Rights. The regional systems further have other instruments that provide for particular categories of rights and the rights of specific groups of people, and/or they establish monitoring bodies. The instruments and monitoring mechanisms of the regional human rights systems apply to and can be used to the benefit of small-scale fishers, fishworkers and communities like those of the UN human rights system.

What is the nature of rights and obligations under human rights instruments?

Instruments providing for human rights usually enshrine provisions that define the rights or entitlements of individuals or groups on the one hand, and the duties of states (and sometimes other actors) on the other. The entitlements may relate to liberty and freedom from infringement or abuse by state or non-state actors, or to an environment conducive to exercising or enjoying one's rights and to accessing goods and services. While states are the main duty bearers in international human rights law, other actors whose conduct actually or potentially affects the enjoyment of human rights, such as IGOs and corporations, also bear responsibilities. Under international law, some international and regional organizations, particularly intergovernmental organizations, are considered to have human rights obligations resulting from specific legal instruments or the aggregation of the duties of the states that constitute them.⁶ The nature and extent of human rights obligations of business entities, including in fisheries, is one of the most debated contemporary international legal issues.⁷ Entities that are mainly right holders, such as small-scale fishing communities, may also

⁶ See: Kent, G. 2005. The Human Rights Obligations of Intergovernmental Organizations, *UNCHRONICLE*, 32 (3).

⁷ See: Guiding Principles on Business and Human Rights (A/HRC/17/31), HRC resolution 17/4 of 16 June 2011. See also: HRC resolution 26/9 of June 2014 on the elaboration of an international legally binding instrument on transnational corporations (TNCs) and other business enterprises with respect to human rights.

have duties to respect the rights of others and carry out other responsibilities such as supporting the sustainability of resources (Article 5.14).

At least with respect to the obligations of states, there is overall agreement on the duties to respect, protect and fulfil human rights. The duty to respect entails refraining from interfering with or curtailing the enjoyment of human rights. The duty to protect requires states to protect individuals and groups against human rights abuses by other third party actors. The duty to fulfil means that states must take positive action to facilitate and sometimes provide for the enjoyment of human rights.

The obligations to realize some human rights, especially ESC rights, are qualified by the requirement of “progressive realization”,⁸ which recognizes the resource implications of some human rights and allows their achievement through reasonable, concrete and expeditious steps taken over time within the means available to states. The qualifier does not entitle states to postpone the realization of rights indefinitely, but meeting the obligations may require prioritization and involve tradeoffs between different components of rights and groups of people. The existence of various methods and considerations in the realization of human rights is a reality recognized in human rights law. However, human rights compliance requires that policy priorities are set in an inclusive and equitable manner and that they are non-discriminatory. Tradeoffs should not also create or exacerbate unequal or discriminatory relationships.

Are human rights really individual rights?

The question of whether human rights represent individual or collective values is particularly important in SSF. It is argued, for example, that human rights are individual, private and autonomous (“neoliberal”) values that fail to accommodate collective or communal interests such as the rights of small-scale fishing communities and their sociocultural foundations.⁹ However, in addition to those rights that by definition belong to groups of people (i.e. collective rights), other human rights that normally fall in the category of CP and ESC rights are also interpreted in both theory and practice as belonging to a collectivity. The right to property under Article 21 of the American Convention on Human Rights and the right to culture under Article 27 of the ICCPR are, for example, interpreted as protecting indigenous peoples’ customary tenure rights to natural resources such as fisheries.¹⁰ While it is possible that the human rights language has been either usurped or adopted in the promotion of neoliberal-style fisheries management interventions, human rights clearly accommodate the notion of collective interests. This is recognized in the SSF Guidelines, for example, in connection with customary or preferential rights of SSF communities, including indigenous peoples and ethnic minorities, “in accordance with international human rights law” (Article 5.4).

While the SSF Guidelines do not provide a definition of small-scale fisheries, their special relevance to the values and traditions of local communities, subsistence fisheries

⁸ For example, Article 2 of the ICESCR, and Article 4 of the CRC.

⁹ Ruddle, K. & Davis, A. 2013. Human rights and neo-liberalism in small-scale fisheries: conjoined priorities and processes. *Marine Policy*, 39(C): 87–93; Song, A.M. 2015. Human dignity: a fundamental guiding value for a human rights approach to fisheries. *Marine Policy*, 61: 164–170.

¹⁰ For example, see the case of the Sawhoyamaya Indigenous Community vs Paraguay, judgment of 29 March 2006, and the case of the Mayanga (Sumo) Awas Tingni Community vs Nicaragua, judgment of 31 August 2001, the Inter-American Court of Human Rights. See also: *Lansman et al. vs Finland*, Communication No. 511/1992, the UN Human Rights Committee; Centre for Minority Rights Development and Minority Rights Group (on behalf of Endorois Welfare Council) vs Kenya, Communication No. 276/2003, African Commission on Human and People’s Rights.

and vulnerable and marginalized groups is emphasized (preface). The special attention to these groups of people is strongly related to fundamental principles of human rights, and hence goes quite well with the HRBA proposed for the achievement of the objectives of the SSF Guidelines. It is, however, worth noting that the SSF sector itself could be a site of power struggle considering the difference in the nature and size of the actors engaged within the sector.

3. UNDERSTANDING THE HUMAN RIGHTS-BASED APPROACH

This section summarizes the evolution, understandings and different perspectives of the HRBA with a view to clarifying what it means in the context of SSF. It further defines an analytical framework of a HRBA that will be applied to the various thematic issues covered by the SSF Guidelines.

3.1. Human rights and development: the emergence and evolution of the HRBA

For a long time, development was largely considered to be a function of economic growth, whereas poverty was equated with low incomes. In the 1990s, a conceptual paradigm shift occurred in the understanding of development as a multidimensional improvement in people's capability to lead the lives they value. Advanced by the Nobel Laureate Amartya Sen, the capabilities approach conceived development as a process of expanding basic freedoms, such as the ability to avoid starvation, undernourishment, preventable morbidity and premature mortality.¹¹ Thus, poverty is understood in terms of factors such as poor health and education, absence of safe drinking water and sanitation, and vulnerability to disasters. The resulting human development approach, which mainly focuses on the dimensions of a long and healthy life, knowledge, a decent standard of living and enabling conditions such as participation and gender equality, have become a widely accepted measurement of development. The United Nations Development Programme (UNDP) has been issuing yearly reports under the theme since 1990, with its 2000 edition focusing on human rights and human development. Human rights are recognized to be instrumental in the assessment of human development in terms of capturing the progress made as well as measuring the degree to which gains are socially protected against potential threats.¹²

The entry of human rights into the development discourse on the international stage may be taken as far back as the beginning of the 1970s, when developing countries in the Southern hemisphere pushed for the fair distribution of wealth and resources under a New International Economic Order. Although this project failed, it is considered to have laid down the impetus for later developments such as the adoption of the 1986 UN Declaration on the Right to Development, which aims at the constant improvement of people's well-being on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom. The 1993 World Conference on Human Rights in Vienna underscored the interrelationship between human rights and development, reaffirming the right to development as a universal and inalienable right.¹³

¹¹ Sen, A. 1999. *Development as freedom* (1st edition). New York, USA, Oxford University Press.

¹² UNDP. 2000. *Human Development Report 2000*. New York, USA.

¹³ Vienna Declaration and Programme of Action, 12 July 1993, A/CONF.157/23.

How does the HRBA compare with other models of development intervention?

The HRBA emerged in the context of development cooperation from the reorientation of normative and operational frameworks in the 1990s. It was essentially developed as an approach that could remedy the deficiencies in the charity and needs-based approaches that preceded it, by working towards systemic changes and addressing the root causes of poverty including discrimination, marginalization, exploitation and abuse. Under the charity model, self-initiated philanthropy provided goods and services based on the assumption of the needs of the poor, whereas the needs-based approach recognized the agency of the poor in identifying problems to be addressed and in deciding the means to alleviate them. Despite their positive developments, both approaches fell short of grappling with policy, regulatory and institutional frameworks with a view to bringing about systemic changes.

Premised on the ethical position that all people are entitled to certain standards of well-being, what is known as the rights-based approach came into being in order to respond to the gaps in the charity and needs-based models by analysing inequalities, vulnerabilities and responsibilities, and redressing discriminatory practices and unjust distributions of power that sustain poverty. The human rights-based approach seeks to frame development processes within the rights and duties laid down by the international human rights instruments. It further seeks to address the injustices of poverty by empowering right holders to claim their rights and duty bearers to meet their obligations.

Box 1: Models of development cooperation¹⁴

Charity model	Needs-based approach	(Human) rights-based approach
Poverty as material deprivation	Poverty as material deprivation	Poverty as a form of injustice and issue of human rights
Focuses on input not outcome	Focuses on input and outcome	Focuses on process and outcome
Emphasizes increasing charity	Emphasizes meeting needs	Emphasizes realizing rights
Recognizes moral responsibility of rich towards poor	Recognizes needs as valid claims	Recognizes individual and group rights as claims towards legal and moral duty bearers
Individuals are seen as beneficiaries of largesse	Individuals are objects of development interventions	Individuals and groups are empowered to claim their rights
Individuals deserve assistance	Individuals deserve assistance	Individuals are entitled to assistance
Focuses on manifestation of problems	Focuses on immediate causes of problems	Focuses on structural causes and their manifestations

¹⁴ Adapted from Boesen, J.K. & Martin, T. 2007. *Applying A Rights-Based Approach: An inspirational guide to civil society*. The Danish Institute for Human Rights.

How is the HRBA introduced into the UN system and global development architecture?

Within the UN, the Secretary-General's 1997 designation of human rights as a cross-cutting issue that should be mainstreamed into the programmes, policies and activities of all UN specialized agencies, programmes and funds¹⁵ ushered in policy and programming shifts within the UN bodies. The Secretary-General's report on "further change" in 2002 advocated for the integration of human rights in the humanitarian, development and peacekeeping work within the UN system and the application of a human rights approach to programming in UN actions at the country level.¹⁶ Human rights, development, and peace and security became the three interrelated pillars of the UN system. The 2005 World Summit called for the integration of the promotion and protection of human rights into national policies and the further mainstreaming of human rights throughout the UN system.¹⁷

Although organizations such as the UNDP and the United Nations Children's Fund (UNICEF) have had relatively wider experience based on specific human rights mainstreaming policies,¹⁸ various UN agencies, programmes and funds have been implementing the HRBA to differing degrees. The World Health Organization, the World Food Programme and FAO have normative, policy and/or institutional frameworks that exhibit the HRBA.¹⁹ Institutions such as the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the United Nations Population Fund (UNFPA) have also developed detailed manuals to help their staff and partners operationalize the HRBA in their work.²⁰ All these and other UN bodies are further engaged at the country level in the Common Country Assessment and the UN Development Assistance Framework, which use gender equality and the HRBA as their programming principles.²¹

The 32-member United Nations Development Group (UNDG) that was created in 1997 to coordinate, harmonize and align UN development activities adopted the Common Understanding on the Human Rights-Based Approach to Development Coordination in 2003. The UNDG human rights mainstreaming mechanism (now Human Rights Working Group) was then established in 2009 to further strengthen system-wide coherence, collaboration and support for countries, and has served as a platform to share experience and address the challenges of integrating the HRBA. According to the Common Understanding:

- All programmes of development cooperation, policies and technical assistance should further the realization of human rights as laid down in the UDHR and other international human rights instruments;

¹⁵ UN. 1997. *Renewing the United Nations: A Program for Reform*. Report of the Secretary General, A/51/1950, 14 July 1997.

¹⁶ UN. 2002. *Strengthening of the United Nations: An Agenda for Further Change*. Report of the Secretary General, A/57/387.

¹⁷ UN. 2005. 2005 World Summit Outcome, General Assembly resolution, A/RES/60/1.

¹⁸ UNICEF. 2012. *Global Evaluation of the Application of the Human Rights-Based Approach to UNICEF Programming*, by Universal Management Group. Final Report – Volume I. New York, USA, pp. 29–35; UNDP. 2012. *Mainstreaming Human Rights in Development Policies and Programming: UNDP Experience*. New York, USA, p. 3.

¹⁹ World Bank and OECD. 2013. *Integrating Human Rights into Development: Donor approaches, experiences and challenges* (2nd edition). Washington, DC, p. 14.

²⁰ OHCHR. 2006. *Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation*. Geneva, Switzerland; UNFPA and Harvard School of Public Health. 2010. *A Human Rights-Based Approach to Programming: Practical Implementation Manual and Training Materials*.

²¹ UNDG. 2010. *Guidance Note: Application of the Programming Principles to the UNDAF*.

- Human rights standards contained in, and principles derived from, the UDHR and other international human rights instruments guide all development cooperation and programming in all sectors and in all phases of the programming process; and
- Development cooperation contributes to the development of the capacity of duty bearers to meet their obligations and/or of right holders to claim their rights.

A review of donor approaches and experiences shows that most bilateral and multilateral donors have adopted policies that integrate a HRBA or human rights principles as either binding requirements or aspirational goals.²² The mode of articulation of the HRBA in development cooperation policies ranges from general reaffirmation of a commitment to human rights to making them part of the objectives or preconditions of development cooperation.²³

Although human rights occupied an important place in the Millennium Declaration of 2000,²⁴ the Millennium Development Goals (MDGs) were not explicitly aligned with the HRBA. Nonetheless, their later implementation has been related to the fulfilment of human rights such as the right to food, the right to education and the right to health.²⁵ The 2012 UN Conference on Sustainable Development (Rio+20) further reaffirmed the commitment of states to human rights. The Sustainable Development Goals (SDGs), which were the result of a consultative process set off by Rio+20, expressed the resolve of the Heads of State and Government and High Representatives, *inter alia*, to combat inequalities; to build peaceful, just and inclusive societies; and to protect human rights and promote gender equality.²⁶ They include a number of human rights-related targets and indicators.

Human rights further featured in the aid effectiveness agenda. While the 2005 Paris Declaration on Aid Effectiveness focused on the mechanics of aid delivery and failed to explicitly address human rights, the 2008 Accra Agenda for Action recognized the fundamental importance of human rights for achieving enduring impact on the lives and potential of poor women, men and children, and for designing and implementing development policies and programmes. The Busan Partnership for Effective Development Co-operation of 2011 further cemented the commitments to using a HRBA by recognizing human rights as commonly shared and foundational principles for multistakeholder cooperation. The recognition of the private sector as a formal member of development cooperation in Busan, which is further reflected in the reorientation of development cooperation policies in recent years to give a more visible role to the private sector, may raise questions about the human rights obligations of corporations and other businesses.

The work of FAO has various human rights dimensions, including the right to adequate food, gender equality, decent work, tenure rights, indigenous peoples' rights, and procedural rights such as those relating to participation, non-discrimination and

²² World Bank and OECD, 2013. Op cit.

²³ For example, see Finland's Development Policy Programme 2012; DFID. 2005. *Partnerships for Poverty Reduction: Rethinking Conditionality, a UK Policy Paper*. London; Minister of Justice of Canada. 2008. Official Development Assistance Accountability Act, S.C. 2008, C. 17. Quebec City; EBRD. 2008. *Environmental and Social Policy*. London; and Council of Europe Development Bank. 2010. *Loan and Project Financing Policy*. Paris.

²⁴ UN General Assembly, 55th Session. 2000. *United Nations Millennium Declaration*. UN Doc. A/RES/55/2.

²⁵ UN General Assembly, 65th Session. 2010. *Keeping the promise: united to achieve the Millennium Development Goals*. UN Doc. A/RES/65/1.

²⁶ UN General Assembly, 70th Session. 2015. *Transforming our world: the 2030 Agenda for Sustainable Development*. UN Doc. A/RES/70/1.

accountability. Human rights are recognized as objectives and/or guiding principles in the Country Programming Framework and the Project Cycle Guide of FAO²⁷ and in a number of international instruments developed under its aegis.²⁸ FAO seeks to mainstream the aforementioned rights in its multifaceted normative, analytical and operational activities, including in its policy, legislative, programme and capacity development support to Member States.

What are the main components of the HRBA?

Various approaches that aim to promote the implementation of human rights in the development or emergencies context are referred to by the umbrella phrase “human rights-based approaches”. These include human rights mainstreaming, human rights projects, human rights conditionality and human rights-based dialogue. Mainstreaming is the conscious and systematic integration of human rights into policies, plans, programmes, priorities, processes and work results of an organization. Human rights projects follow the targeting approach that aims to realize specific human rights in specific sectoral or geographic contexts (e.g. supporting the realization of the right to free and compulsory primary education in an SSF community). Human rights conditionality applies particularly in the context of international trade and development cooperation (e.g. that of the European Union) where the delivery of aid or trade-related obligations are conditioned, to varying degrees, on the compliance of a partner or recipient country with human rights and democratic principles. Human rights-based dialogue is carried out as part of regular and contextualized political dialogue in the context of international cooperation covering a broad range of topics including respect for human rights, democratic principles, the rule of law and good governance (e.g. Article 8 of the Cotonou Partnership Agreement with the Group of African, Caribbean and Pacific countries). The meaning of the HRBA adopted in the present paper structures many of Understanding on HRBA.

The HRBA is generally defined as a conceptual framework of human development that is normatively based on international human rights standards and operationally directed at promoting and protecting human rights. It is analysed and implemented with “three lenses”: (1) the achievement of human rights as the overall **objective or guiding framework** of development and/or emergency-related initiatives; (2) **respecting the human rights principles** of participation, accountability, non-discrimination, transparency, human dignity, empowerment and the rule of law (PANTHER) in the design, implementation, monitoring and evaluation of programmes or projects, in order to improve targeting, efficiency, effectiveness and quality of outcomes; (3) the promotion of **rights, duties, responsibilities and accountability mechanisms** by developing the capacity of duty bearers to meet their obligations and of right holders to claim their rights.

²⁷ [FAO Guide to the Formulation of Country Programming Framework](#) (2011) and the [FAO Guide to the Project Cycle](#) (rev. 2015).

²⁸ For example, see the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, FAO Council 2004 (VGRtF); the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, Committee on World Food Security (CFS) 2012 (VGGT); the Principles for Responsible Investment in Agriculture and Food Systems, CFS 2014 (CFS RAI); and the SSF Guidelines.

1. The substantive human rights standards that serve as objectives are to be drawn from the international and regional human rights instruments mentioned above and the national constitutions and legislations that give effect to them.
2. The process principles are drawn from fundamental values of justice and dignity that underlie all human rights, as well as specific instrumental rights such as the right to equality and non-discrimination, the right to facilitate participation in public affairs (including freedom of expression and information), and the right to an effective remedy in cases of violation. They put good development practices such as participation, gender equality and empowerment into a coherent human rights normative framework.
3. Right holders are individuals or groups entitled to make claims for action or restraint and for goods and/or services. The primary duty bearer is the state and its organs, including parliament, government ministries, local authorities, justice institutions and others with civil service responsibilities. As indicated earlier, the human rights responsibilities of IGOs and business entities have received increasing recognition in human rights law. It is also argued that individuals and entities that have the power to affect the lives of right holders, such as local leaders, heads of households, CSOs and international organizations, are “moral duty bearers”.²⁹ Furthermore, right holders have a duty to respect the rights of others and to take responsibility for their own lives and actions. Finally, the state holds legal duty to regulate the conduct of all non-state duty bearers.
4. Implied in the “three lenses” of the HRBA are: the need to conduct situation analysis to identify the immediate, underlying and root causes of development problems; focusing on vulnerable, disadvantaged and marginalized groups; and assessing normative gaps and implementation capacity. These are to be looked at particularly in the application of the HRBA.

3.2. The HRBA in the context of small-scale fisheries

In a way that resembles the evolution towards the human development agenda, the thinking in fisheries has evolved from focusing on conservation of resources and the environment (biological conception of sustainability) to recognizing the agency, well-being and livelihoods of people working in the sector. The SSF Guidelines are a result of this move towards a people-centred approach in SSF. Accordingly, fisheries are not just resources; they are also sources of livelihoods (income, food, employment, etc.), sites of expression of cultural values, and a buffer against shocks for poor communities. The interests, rights and responsibilities of small-scale fishers, fishworkers and communities feature prominently in people-centred approaches.

In the context of fisheries, the rights-based approach (RBA) is commonly understood as a management strategy in which access to fisheries resources is assigned to individual or groups of fishers. Various schemes of use rights and fisheries management have been in use. Under the common property resources approach, access is both free and open to a set of users or potential users. While open access regimes may sound good in terms of human rights considering the relative absence or minimization of impediments to SSF communities, they are vulnerable to the adverse effects of asymmetrical power relations and non-sustainable use of resources. The RBA emerged to address the problem of overexploitation of fisheries resources, including under what are known as “conventional fisheries management” through command-and-control, by providing

²⁹ Boesen and Martin, 2007. Op. cit.

exclusionary rights under various schemes such as territorial use rights fisheries (TURFs) and individual transferable quotas (ITQs). Under TURFs, secure and exclusive privileges to fish one or more aquatic species in a specified area are granted to groups, or in rare cases to individuals, whereas ITQs are individual tradable permits (quasi-private property rights) to catch or transfer a certain portion of total allowable catch. Such managed access schemes are often associated with costs (e.g. license fees) for those who obtain the rights.

Proponents argue that the RBA promotes conservation, efficiency and sustainability, whereas critics aver that techniques such as ITQs increase social class distinctions, unemployment and other problems of equity and social justice.³⁰ Fishing rights and incentives are further criticized for underplaying the complex relationships that exist between poverty, resource access and wider economic and political contexts, especially when applied to SSF in developing countries.³¹ As defined earlier, the HRBA seeks to address critical governance issues, not only in relation to the rights to access and manage fisheries resources but also with regard to issues such as health, education, food security and employment in the sector. It does so, among others, by ensuring participation and accountability in decision-making through a rules-based system; addressing power asymmetries through inclusion and non-discrimination (between sexes and socio-economic classes); empowering right holders, especially vulnerable and marginalized groups; and building the capacity of duty bearers.

RBA and HRBA clearly come from different directions – the first as a management and/or economic model for sustainable use of fisheries resources, and the second as a method that makes human rights, particularly those of vulnerable and marginalized groups, measurements of progress in fisheries governance and development. However, there have been coincidental as well as planned convergences between the two approaches. The importance of inclusive stakeholder consultation, gender equality, empowerment, transparency and accountability is, for example, increasingly recognized in the RBA for fisheries.³² Nevertheless, rights-based schemes in fisheries may fall short of the requirements of the HRBA in terms of equitableness, process of establishment, implementation and/or outcome. The allocation of rights under a RBA should not, for example, result in discrimination or erect unreasonable barriers against access to resources by certain individuals or groups, especially vulnerable and marginalized communities. This would in turn require identifying and recognizing such groups, including subsistence and artisanal fishers. Experience from South Africa may serve as an example of the reorientation of a RBA scheme towards a more HRBA-compliant regime.

In post-apartheid South Africa, the Marine Living Resources Act of 1998 was designed to address the problems of overfishing and the plight of fisheries-dependent communities (e.g. racial discrimination in fishing rights) under the earlier “complex, fragmented and inconsistent”³³ regulations. The Act created the new category of “subsistence fishers”. Subsistence fishers were then granted permit exemptions (not

³⁰ Acheson, J., Apollonio, S. & Wilson, J. 2015. Individual transferable quotas and conservation: a critical assessment. *Ecology and Society*, 20(4): 7.

³¹ Ratner, B.D., Asgard, B. & Allison, E.H. 2014. Fishing for justice: human rights, development and fisheries sector reform. *Global Environmental Change*, 27: 120–130.

³² FAO COFI. 2016. Outcome of and Follow-up to Tenure and Fishing Rights 2015, COFI/2016/7.2.

³³ Sowman, M. 2006. Subsistence and small-scale fishers in South Africa: a ten-year review. *Marine Policy*, 30: 60–73.

fishing rights) to fish in some provinces. Fisheries management focused more on commercial rights allocation, and no policy provision was made for small-scale, artisanal fishers who fished for their food with limited sales. The non-issuance of rights and permits to subsistence fishers meant that they technically fished in contravention with the law. A few small-scale fishers were successful in applying for commercial rights; however, overall fishing rights allocation under the Act could not result in the empowerment of marginalized groups of fishers because of elite capture and a situation where the poor were forced to sell their rights to companies to fulfil their immediate needs. About 5 000 artisanal fishers supported by NGOs instituted a court action against the Fisheries Minister to recognize their fishing rights and to provide them with equitable access to marine resources. In May 2007, the Equality Court ordered the Minister to develop a new policy that would accommodate the socio-economic rights of these fishers, and meanwhile allowed *bona fide* fishers to access marine resources and sell their catch. In 2012, a small-scale fisheries policy was adopted in a consultative process aiming at the progressive realization of the human rights of affected communities. Implementation follows the processes of **recognition of small-scale fishers, granting SSF cooperatives collective rights to several fish species, and developing co-management structures and support programmes.**

It should be noted at this juncture that not all distinctions in the protection or provision of rights or entitlements are discriminatory, and hence do not all go against the HRBA. This is, for example, true with respect to the provisions of the SSF Guidelines on preferential treatment that is meant to address discrimination and ensure equitable benefits, including in access to resources or fishing opportunities, particularly for women, indigenous peoples and other vulnerable and marginalized groups (Articles 5.7, 5.8, 6.2). Distinctions may be made in a RBA under different considerations, but to be justifiable and hence HRBA-compliant, the distinctions should be based on reasonable and objective criteria.

The ITQs system of Iceland was put to the test of the standard of non-discrimination before the UN Human Rights Committee in a case brought by two fishermen.³⁴ To begin with, the Committee noted that **every quota system introduced to regulate access to limited resources privileged, to some extent, the holders of such quotas and disadvantaged others without necessarily being discriminatory.** However, it found the specificities of the case to be different and hence argued: “On the one hand, the first Article of the Fisheries Management Act No 38/1990 of Iceland stated that the fishing banks around Iceland are common property of the Icelandic nation. On the other hand, the distinction based on the activity during the reference period, which initially, as a temporary measure, might have been a reasonable and objective criterion, became not only permanent with the adoption of the Act but also transformed original rights to use and exploit a public property into individual property.” **Allocated quotas no longer used by their original holders could be sold or leased at market prices instead of reverting to the state for allocation to new quota holders, in accordance with fair and equitable criteria.** The state party had not shown that this particular design and these modalities of implementation of the quota system met the requirement

³⁴ Communication No. 1306/2004, final views of 14 December 2007.

of reasonableness. While not required to address the compatibility of quota systems for the use of limited resources with the Covenant as such, the Committee concluded that **“in the particular circumstances of the present case, the property entitlement privilege accorded permanently to the original quota owners, to the detriment of the authors, was not based on reasonable grounds.”**

The allocation of fishing rights should not also violate the tenure rights of fishing communities to aquatic resources and adjacent land. The SSF Guidelines require states and other parties to recognize, respect and protect all forms of legitimate tenure rights, including the customary and otherwise preferential rights to fishery resources and land by SSF communities such as indigenous peoples (Articles 5.3, 5.4). Rights-based schemes to fisheries should further accommodate or should not exclude legitimate tenure rights.

In a case decided in 2008,³⁵ the Australian High Court found the government’s grant of fishing permits based on the Fisheries Act to persons outside the Yolngu community to be in violation of the Aboriginal Land Rights Act of 1976, under which substantial coastal areas had been granted to the community that traditionally owns the land.

In New Zealand, the ITQ system introduced by the 1986 Fisheries Amendment Act was challenged based on the rights of the indigenous Maori people that are guaranteed by the Treaty of Waitangi of 1840. The 1986 Act allocated quota to fishing firms and individuals that met the allocation criteria. Many part-time Maori fishers were excluded from the initial allocation. They objected to the ITQ system that replaced some of their customary rights, knowledge and practices and provided others access to their traditional fishing grounds. The implementation of the 1986 Act prompted Treaty-based claims to large areas of fisheries. The settlement of some of the claims through the Maori Fisheries Act 1989 and the Treaty of Waitangi Settlement Act 1992 resulted in the reclamation of much of their traditional land and fisheries resources and the allocation of approximately one-third of the total ITQ to the Maori.³⁶ While the ITQ system was used to settle much of the Maori commercial fisheries’ claims, the 1992 Act further provided for the recognition and exercise of Maori customary non-commercial fishing rights and management practices. The Kaimoana Customary Fishing Regulations 1998 and the Fisheries (South Island Customary Fishing) Regulations 1998 strengthen some of the rights of the Maori to manage their fisheries and non-commercial fishing in a way that best fits their local practices. The Marine and Coastal Area Act 2011 further preserves and protects any existing recreational fishing, navigation or use rights in the common marine and coastal area, while providing the Maori the opportunity to seek recognition and protection of longstanding customary interests that are not yet formally recognized, without excluding public access to the area.

What would a HRBA to the formation and implementation of RBA schemes such as TURFs or ITQs look like?

RBA schemes could be locally driven or government-initiated, but they should follow participatory processes; be non-discriminatory in process and outcome; identify

³⁵ Northern Territory of Australia & Anor vs Arnhem Land Aboriginal Land Trust.

³⁶ Bess, R. 2001. New Zealand’s indigenous people and their claims to fisheries resources. *Marine Policy*, 25: 23–32.

particularly vulnerable and marginalized groups, such as subsistence and artisanal fishers, to be included for preferential rights; recognize legitimate tenure rights; empower users to be involved in co-management; and have accountability systems for fisherfolk as well as other actors. The Samoan TURFs exhibits some of these features:

In the late 1980s and early 1990s, the Samoan government embarked on major efforts to formalize and support customary fishing rights of native communities. Through legislative reforms, and the creation of the Samoan Customary User Rights System, groups of fishermen organized by villages are able to voluntarily establish and manage TURFs over traditional fishing grounds, and regulate the harvests of community members and outsiders fishing in their waters. The programme has been designed to meet the goals of sustainable resource use and empowering villages in fishery management. Key design features include the active participation of the Samoan Government in guiding the creation and management of TURFs and the integration of traditional management practices to achieve sustainability. In the Safata District, community members have established a district-wide TURF with a network of no-take reserves to increase biological performance and sustain local livelihoods into the future.³⁷

What are the goals, processes and actor characteristics of the HRBA in SSF?

Under the HRBA, small-scale fishers, fishworkers and communities take centre stage in any SSF governance and development initiative. Such initiative will not only be about the resources, but also about realizing the human rights of people deriving their livelihoods from the sector. Such rights may be expressed in terms of substantive gains such as food security, access to resources and equitable benefits from work in the sector. The human rights of small-scale fishers, fishworkers and communities that are specifically provided for in the SSF Guidelines include: the right to adequate food; legitimate tenure rights to fisheries resources and adjacent land, including rights against arbitrary/forced eviction/displacement; the right to participate in the management of fisheries resources; the right to an adequate standard of living including housing, water, sanitation and source of energy; the right to decent work and labour rights; the right to protection from physical and sexual violence; the right to equal access to social security and services such as savings, credit and insurance; and the collective rights of women, indigenous peoples, migrants and other vulnerable and marginalized groups – including special support in developing their organizations, in market access, in benefitting from trade and in access to information.

Some of the aforementioned rights, such as tenure and management-related rights, may not explicitly and specifically feature in the list of traditionally recognized human rights, but they relate to substantive rights such as the right to property, the physical aspects of the right to adequate standards of living, and procedural rights such as the right to participate in public affairs. While the state is the primary duty bearer with respect to these rights, obligations are owed by private actors such as corporations and vessel owners and other actors who are in a position to impair the rights by their conduct.

³⁷ Cited in HLPE. 2014. Sustainable fisheries and aquaculture for food and nutrition security. A report of the High Level Panel of Experts on Food Security and Nutrition of the CFS. Rome.

The achievement of the above-mentioned substantive rights requires non-discriminatory and informed participation of SSF communities in transparent and rules-based decision-making processes that are based on the recognition of their dignity and the accountability of all actors involved. SSF communities should be given a voice not only in the allocation of resource rights but also in decisions affecting their rights and livelihoods, such as marine spatial planning, water resource management and coastal land-use planning. With regard to interventions relating to SSF development and governance, human rights principles apply to the design, implementation, monitoring and evaluation of initiatives, programmes and projects that may concern general poverty eradication as well as more specific issues in the thematic areas covered by the SSF Guidelines. The principles are presented in the next section.

Under the HRBA, SSF fishers, fishworkers, communities and their organizations should be able to claim and promote their rights vis-à-vis state and non-state actors, whereas the latter should be able to carry out their duties towards them. Empowerment and capacity development become of crucial importance. In accordance with the prevailing mode of definition of human rights obligations, the SSF Guidelines mainly provide for the conduct expected of states at national and local levels. While human rights entitlements are not necessarily conditional upon the performance of certain duties, as indicated earlier, right holders (e.g. SSF communities) may also have other responsibilities, such as to support the long-term conservation and sustainable use of resources (Article 5.14).³⁸ The conduct of private actors may also have a significant impact on the rights of SSF communities, fishers and fishworkers, for example, in development and investment projects, employment, value chains, post-harvest and trade. Although such issues arise mainly in relation to the conduct of corporations, small-scale fishers could also be commercial entities that in some circumstances may find themselves in competition or asymmetric relationship with subsistence fishers. The conduct of some international and regional organizations may also have an impact on the rights of SSF communities. There are both legal and moral bases for the argument that businesses and international organizations have human rights obligations. Other players to whom the SSF Guidelines are addressed, such as NGOs and research and academic institutions, may not necessarily bear clear legal rights or duties, but they play important roles in the interface between the other actors by connecting, supplementing, documenting and strengthening efforts at the realization of human rights.³⁹

3.3. The HRBA and the guiding principles of the SSF Guidelines

The SSF Guidelines enshrine guiding principles for the design, implementation and monitoring of initiatives, programmes and projects in the various policy areas covered by the Guidelines. These principles are aligned with the human rights principles that are represented in FAO by the mnemonic PANTHER (see Box 2). This section makes a schematic presentation of the meanings, normative foundations and other features of the principles. Some of them that merit more elaboration are presented further below.

³⁸ While individual duties that are recognized in some instruments such as the American Declaration on the Rights and Duties of Man (1948), the UDHR, art 29, and the African Charter on Human and People's Rights (1986), arts 27–29, are considered a red herring in international human rights discourse, they become particularly important in the context of fisheries governance as potential foundations of stewardship obligations or social responsibilities.

³⁹ See: FAO. 2014. Towards the Implementation of the SSF Guidelines: Proceedings of the workshop on the development of the Global Assistance Programme in support of the implementation of the SSF Guidelines, 8–11 December 2014, Rome, p. 31.

Box 2: Schematic presentation of process principles in the HRBA under the SSF Guidelines (Chapter 3)

HRBA (guiding) principles (PANTHER)	Meaning	Normative basis/ related rights	Additional remarks
Poverty as material Participation and consultation	Ensuring that SSF communities participate actively, freely, meaningfully and effectively in the making of decisions that affect their lives and well-being	Right to take part in the conduct of public affairs: freedoms of association, assembly, expression and information	Need to deal with the effects of power asymmetries, identify all relevant stakeholders for inclusive processes, and promote support to vulnerable and marginalized groups to participate effectively
Free, prior and informed consent (FPIC) deprivation	Indigenous peoples' right to participate in matters affecting their lives	Indigenous peoples' rights	Decentralized/devolved decision-making facilitates participation SSF Guidelines refer to the UNDRIP
Accountability	Holding individuals, public authorities and non-state actors responsible for their conduct and decisions, through simple and accessible mechanisms that can provide timely and effective responses	Right to effective remedy and due process	Putting in place participatory and innovative (formal and non-formal) impact assessment, feedback, reporting and accountability mechanisms
Monitoring	Monitoring the efficient and effective realization of human rights and/ or providing remedy in cases of violation or impairment		Gender-sensitive indicators and data are important Need to comply with international reporting, complaint and inquiry procedures
Non-discrimination and equality	Equal protection of the law against arbitrary and discriminatory treatment by any actor, and prohibition of discrimination (in policy, law and practice) based on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, disability and health status, age, sexual orientation and other status	Right to equality before the law; rights against discrimination	Empowerment and affirmative action/ preferential treatment to vulnerable and marginalized groups with a view to facilitating de facto equality Distinctions based on reasonable and objective criteria are not discriminatory
Gender equality	Ensuring that women enjoy equal rights and opportunities and equitable benefits, including through equal participation in decision-making and management, preferential treatment in the provision of amenities and services, elimination of violence, and recognition and development of knowledge	Women's rights (principle of intersectionality: seeing gender along with other factors such as economic class, ethnic group, age or religion)	SSF Guidelines require compliance with and implementation of CEDAW Men can also suffer from problems such as food and nutrition insecurity because of gendered fish sector work

HRBA (guiding) principles (PANTHER)	Meaning	Normative basis/ related rights	Additional remarks
Transparency	Clearly defining and widely publicizing policies, laws, procedures and decisions in applicable languages and accessible formats	Freedom of information	Accountability mechanisms should have transparent functioning that may in turn facilitate clarity of roles and responsibilities and important coordination Promotes informed choices and decisions and hence empowerment
Human dignity	Recognizing the inherent dignity and equality of human beings and treating everybody with dignity and respect	Right against inhuman and degrading treatment	Human dignity is a primordial/foundational principle of human rights
Empowerment	Creating a condition where individuals and communities can effectively participate in and influence decisions affecting their lives, and building the capacity of duty bearers to respond to related demands	Right to access information, right to education (ability to navigate through different levels of institutions, express and negotiate interests, and influence public decisions, customs and practices)	Claiming rights may cause confrontation, but constructive dialogue could be pursued particularly in cases where violations result from lack of awareness and capacity Economic empowerment (including in technologies) of vulnerable groups may be pursued as an end in itself, as it has proved instrumental to promoting equality in many aspects of life
Rule of law	Governing SSF based on easily accessible rules that are applied and enforced equally against all members of society and are independently adjudicated	Rights to equality before the law, effective remedy and due process	Fairness of rules – avoiding/challenging “rule by law”
Other pertinent principles			
Respect of cultures	Recognizing and respecting existing forms of organization, traditional and local knowledge, and practices of SSF communities, which should not contradict human rights	Right to culture	Reference to ILO Convention 169 on Indigenous and Tribal Peoples (1989), and to UNDRIP
Social responsibility	Promoting community solidarity and collective and corporate responsibility, and the fostering of an environment that promotes collaboration among stakeholders, should be encouraged		Compared to the HRBA, corporate social responsibility is considered to be a top-down approach where corporations decide what they could do for communities HRBA as a tool of social insurance (social license to operate)

HRBA (guiding) principles (PANTHER)	Meaning	Normative basis/ related rights	Additional remarks
Feasibility and social and economic viability	Ensuring that policies, strategies, plans and actions for improving SSF governance and development are socially and economically sound and rational, informed by existing conditions, implementable and adaptable to changing circumstances, and supportive of community resilience		Contextualization should always be a principle accompanying the HRBA, as human rights could be sensitive issues and require repackaging in some contexts

The principle of **participation and consultation** has instrumental value in terms of bringing the interests and values as well as knowledge of SSF communities to bear in all decisions affecting their lives. In the case of management of resources, participation may be seen as a goal in itself as SSF communities have a substantive right to be part of management systems. Participation is often claimed to have been met by the mere presence of community representatives around the table of decision-making. Meaningful and effective participation requires that SSF communities are engaged from the beginning; that their representation follows basic principles of equality in terms of gender, age and other social factors; that communities or their representatives are empowered or supported in terms of skills of negotiation; and that their views are duly considered and/or taken on board. The claim of communities to participate is often a request to be heard equally with other competing interests rather than to determine the outcome as such. For example, the claim of fisherfolk, who challenged the period of the 2015 annual fishing ban in Tamil Nadu to help facilitate fish breeding, was for the government to consider their traditional knowledge of fish conservation together with the scientific data it had before fixing the period or in reviewing it.⁴⁰ This relates the principle of participation to the duty to recognize the traditional knowledge of SSF communities (see Article 11.6).

In the case of indigenous peoples, participation requires consent. FPIC is a collective right of indigenous people to give or withhold their **free, prior and informed consent** to actions that affect their lands, territories and natural resource. Indigenous communities should be allowed to say “Yes” or “No” to a project and at each stage of the project, **free** from force, intimidation, manipulation, coercion or pressure by any government or company. Their consent should be sought **prior** to the allocation of natural resources for particular uses and prior to the approval of specific projects, with enough time to consider all the information and make a decision. And they should be **informed** about all the relevant aspects of the project, including from independent and expert sources, in a language they can easily understand in order to be able to decide whether to agree or not. Although the element of “prior consent” is missing from the principle of consultation and participation in both the SSF Guidelines and the VGGT, the provisions on the need to take into account the provisions of the UNDRIP in implementing the principle means that those elements apply.⁴¹

⁴⁰ For example, see the New Indian Express. 2015. TN Fishermen seek Change in Period of Fishing Ban. *New Indian Express*, 16 April 2015.

⁴¹ SSF Guidelines, Article 6; VGGT, Articles 3B.6, 9.9, 12.7.

In the Philippines, the Indigenous Peoples Rights Act (No. 8371) of 1997 recognizes and protects the rights of ownership and possession of indigenous peoples to their ancestral domains, including fishing grounds. The Act enjoins all departments, government agencies and government-owned or government-controlled corporations from issuing, renewing, or granting any concession, license or lease, or entering into any production-sharing agreement, without prior certification from the National Commission on Indigenous Peoples (NCIP) that the area affected does not overlap with any ancestral domain. Such a certificate shall be issued after the Ancestral Domain Office of the area concerned conducts a field-based investigation, and the concerned indigenous peoples give their free, prior, informed and written consent. Indigenous peoples are granted the right to stop or suspend any project that has not satisfied these requirements in accordance with this Act. The NCIP is attached to the Office of the President and issues guidelines for the implementation of the Act, such as the FPIC Guidelines of 2002 and 2006.

Accountability is mainly about putting in place a structure through which problems are identified and addressed at the process as well as outcome levels. That is why it is quite interrelated with monitoring in the sense of following up or checking compliance with clearly defined standards. Accountability and monitoring systems can be formal or informal, judicial or non-judicial dispute resolution and simple feedback mechanisms. The principle further applies to relationships within organizations of small-scale fishers, fishworkers and communities. Accountability in development processes often lays more focus on upward reporting and supervision, but in the HRBA, the focus should equally be on downward accountability towards right holders such as SSF communities and towards members of SSF organizations. Recognizing that failure to meet the human rights standards it enshrines could give rise to disputes, the SSF Guidelines require the provision of access to timely, affordable and effective remedies through impartial and competent judicial and administrative dispute resolution mechanisms at least in relation to tenure rights (Article 5.11).

Equality and non-discrimination are generally about promoting equal rights and opportunities for all individuals and communities and eliminating all forms of discrimination at the normative/policy as well as practical levels. The SSF Guidelines include a number of provisions that require ensuring equality and non-discrimination: namely, in the recognition and protection of the tenure rights of women, indigenous peoples and other vulnerable groups, including through preferential access and redistributive reforms; through inclusion in the management of resources; in employment and labour protection (including informal and migrant workers); in special support to SSF communities to address unequal power relationships between value chain actors; in the promotion of trade and benefit sharing; in special support to vulnerable and marginalized groups in countering the impacts of disasters and climate change; and in the development of gender-disaggregated data in official statistics. Considering the vulnerability and marginalization of women despite their important role in SSF, the SSF Guidelines further dedicate a part on gender equality where they require the inclusion of gender mainstreaming in all SSF development strategies, encouraging the participation of women in decision-making and monitoring, and taking policy and legal (reform) measures to realize gender equality (Article 8).

4. APPLYING THE HRBA IN THE CONTEXT OF SMALL-SCALE FISHERIES

The implementation of the human rights entitlements, process principles and duties stipulated in the SSF Guidelines requires multifaceted and multi-tiered actions. The provisions of the Guidelines are articulated based on practical issues and real-time problems in the SSF sector. Empirical research outputs of differing thematic and geographic coverage show varying degrees of progress as well as challenges relating to the protection of human rights in the sector. A comprehensive assessment of the state of the art in the implementation of the human rights elements of the SSF Guidelines is clearly beyond the scope of the present paper. Nevertheless, attempts have been made to highlight some relevant issues in the thematic areas covered by the Guidelines. The following paragraphs provide an indicative description of the type of issues in SSF that could be addressed through the application of a HRBA.

1. **Food security and nutrition** [Chapter 1]: Despite the contribution of SSF communities to the lion's share of the catch that goes to human consumption, and the overall accessibility and affordability of fish in such communities, they often face food insecurity and malnutrition, *inter alia*, because of their location in remote rural areas with weak governance structures, their high exposure to disease, and the lack of dietary diversification.⁴² A study once found, for example, that more than 70 percent of the fisherwomen in the coastal communities of Andhra Pradesh, Karnataka, Kerala and Tamil Nadu were anaemic, even though they spent about 60 percent of their earnings on food.⁴³ It should also be remembered that many more people depend for their food and nutrition security on the products of small-scale fishers and fishworkers. These demonstrate the interrelationship between SSF and the progressive realization of the right to adequate food.
2. **Legitimate tenure rights** [Chapter 5a]: SSF communities often lack secure tenure rights to fisheries and to the land, which they use as both a fishing ground and a place of residence. They may consequently be evicted without adequate notice, consultation and compensation for various development and investment projects such as tourism, coastal infrastructure, natural resource extraction, industrial aquaculture, and damming. The documented cases of forced eviction in the creation of conservation or marine protected areas linked to tourism (as in Cambodia and the United Republic of Tanzania), for large-scale irrigated agriculture and hydropower development (as in the Mekong River Basin), and for high-end private tourism and residential development (as on the beaches of Lake Malawi) are just a few examples.⁴⁴ These add to the livelihood challenges posed by pollution, habitat destruction and climate change as well as conservation-related measures. Positive developments in this respect include national legal measures to recognize the traditional access or territorial rights of SSF communities to near-shore fishing grounds, as in Fiji, Palau, Papua New Guinea, Samoa, Solomon Islands, Vanuatu and Venezuela. The discussion on the relationship between the RBA in fisheries and the HRBA under section 2.2 is relevant to this and the next paragraph.
3. **Management of fisheries** [Chapter 5b]: While significant attention has been paid to the management of fisheries resources in many contexts, the issues of poverty, livelihoods, needs, knowledge and interests of SSF communities has not attracted as much focus as conservation imperatives. Participatory management schemes such

⁴² HLPE, 2014. Op cit., p. 66.

⁴³ Ibid, citing Bentley and Griffiths, 2003.

⁴⁴ Ratner, Asgard and Allison, 2014. Op cit., pp. 120–130.

as co-management are promoted as ways of accommodating competing interests. The legal recognition of traditional management systems in countries such as Fiji, Indonesia, Panama, Peru, the Philippines and Palau provides a good example in terms of bringing attention to the collective rights and experience of people whose lives are embedded in the use and management of coastal resources. However, in the recognition of traditional systems in community-based or co-management arrangements, attention should be paid to issues of gender equality, transparency and accountability in decision-making. Research shows, for example, that very few places have an understanding of gender-inclusive resource management.⁴⁵ Cooperatives created for the purposes of fisheries management should also be formed and operated voluntarily through participatory decision-making processes, as government patronage in some contexts has resulted in ineffective co-management systems.⁴⁶

4. **Social development, employment and decent work** [Chapter 6]: As a result of their overall vulnerability, marginalization and remote rural locations, many SSF communities generally fare poorly in human development measurements including health, education, social security, and amenities for an adequate standard of living, particularly in developing countries. Furthermore, fishing is one of the most dangerous occupations. In recent times, problems of employment and labour conditions in the sector have come under the spotlight due to revelations of child labour, human trafficking, undocumented work and slavery-like practices on board fishing vessels in different parts of the world, especially in Southeast Asia. This includes substandard working conditions for migrant workers on fishing and processing vessels/units that are connected to or fall within the jurisdictions of developed countries such as Ireland, the United Kingdom of Great Britain and Northern Ireland, and the United States of America.⁴⁷ These problems manifest themselves in the formal as well as informal SSF sector, including in terms of gendered violence and sexual abuse (e.g. “fish for sex”). Part of the problem is the absence of effective labour laws and inspection regimes in the sector. It is for this reason that countries such as Indonesia and the Philippines have adopted specific laws that lay down detailed labour standards and implementation mechanisms including interinstitutional collaboration and joint inspection regimes (fisheries and labour) that could also apply to SSF.⁴⁸ Other countries have taken important steps to overcome enforcement challenges through multidisciplinary inspections.⁴⁹
5. **Value chains, post-harvest and trade** [Chapter 7]: Poverty and livelihood improvement challenges in SSF are related to, among others, problems of access to credit and markets and unequal relationships with other value chain actors.

⁴⁵ HLPE, 2014. Op cit.

⁴⁶ Samarakoon, J.I. et al. 2011. *Review of Community-based Integrated Coastal Management: Best Practices and Lessons Learned in the Bay of Bengal, South Asia*. IUCN (International Union for Conservation of Nature and Natural Resources)/FAO, p. 55.

⁴⁷ For example, see: The Guardian. 2015. [Revealed: trafficked migrant workers abused in Irish fishing industry](#). *The Guardian*, 2 November 2015; Walker, T. 2016. [Migrant fishermen detained on US boats for months with pitiful wages and poor working condition, investigation finds](#). *Independent*, 8 September 2016.

⁴⁸ Republic of Indonesia. 2015. *Sistem Dan Sertifikasi Hak Asasi Manusia Pada Usaha Perikanan* [Regulation of the Minister of Marine Affairs and Fisheries of the Republic of Indonesia on the Certification System and Human Rights in the Fishing Business]. NOMOR 35/PERMEN-KP/2015; Republic of Philippines. 2016. *Rules and Regulations Governing the Working and Living Conditions of Fishers on Board Fishing Vessels Engaged on Commercial Fishing Operation*. Department of Labour and Employment, Order No. 156-16.

⁴⁹ ILO. 2016. *Fishers first: Good practices to end labour exploitation at sea*. Geneva, Switzerland.

International trade policies and practices in fish and fish products, such as export-led fisheries development and import liberalization, are not often structured in ways that provide equitable benefits to small-scale fishers, fishworkers and communities. The imperative of equitable and non-discriminatory access to markets and trade requires recognizing the role of SSF actors (including women and vulnerable and marginalized groups), developing their capacities (e.g. in technology) to improve their participation in value chains, involving them in relevant policy processes and impact assessment, and increasing their access to information. An example of steps along these lines may be the introduction of the FAO-Thiaroye fish processing oven in West African villages, which radically transformed the working conditions of the fish processor groups (especially women), allowing for a reduced workload, making them more competitive and consequently improving their livelihoods.⁵⁰

6. **Gender equality** [Chapter 8]: Although SSF are often associated with men, women constitute half of the 120 million people who work in capture fisheries and associated supply chains, especially in pre- and post-harvest activities and near-shore fishing.⁵¹ However, they have relatively low levels of access to fisheries resources and assets because of factors including traditional beliefs, norms and laws, which in turn exclude them from management of resources and confine them to the lowest end of fish value chains.⁵² A study conducted in the intertidal area in the West Indian Ocean (Mozambique and the United Republic of Tanzania),⁵³ for example, revealed that despite the role played by women as the main harvesters of aquatic animals and in transferring harvesting and conservation skills to women of younger generations, they receive no management attention or any type of formal recognition. Their livelihood is also put at risk owing to conflicts with tourism, new immigrant settlements and coastal development.
7. **Disaster risks and climate change** [Chapter 9]: The SSF Guidelines recognize the differential impact of natural and human-induced disasters and climate change – including pollution, coastal erosion, destruction of coastal habitats and changes in fish species, quality and quantities – on the livelihoods of SSF communities. They generally lend support to the application of the HRBA along the relief–development continuum of preparedness, response, rehabilitation, reconstruction and recovery by emphasizing the importance of full and effective participation and consultation, non-discriminatory support to vulnerable and marginalized groups, and accountability for human-induced disasters. SSF communities in many parts of the world have come under increasing threat of or damage to coastal resources and livelihoods as a result of rising sea levels, flooding and pollution caused by various man-made and natural disasters, such as the 2004 Southeast Asian Tsunami. When the damages occur, in addition to the absence of functioning early warning systems in many areas, relief and development initiatives often fall short of being people-centred. For example, the Sri Lankan response to the 2004 tsunami – establishing a conservation buffer zone that will also minimize future disaster impact, and developing a tourism industry with supportive infrastructure – was criticized for the lack of meaningful participation and consultation, transparency and

⁵⁰ FAO. 2015. [New fish drying technology boosts livelihoods in Ivorian towns](#), 24 February 2015.

⁵¹ HLPE, 2014. Op cit.

⁵² Frocklin, S. *et al.* 2013. Fish traders as key actors in fisheries: gender and adaptive management. *Ambio*, 42(8): 951–962.

⁵³ Cited in FAO. 2015. *A Review of Women's Access to Fish in Small-Scale Fisheries*, by A. Lentisco and R.U. Lee. Rome, p. 15.

accountability, and the lack of recognition of the tenure rights and lost livelihoods of SSF communities.⁵⁴

An underlying assumption of the SSF Guidelines is that all of the issues covered have to be addressed in order to achieve sustainable change in the sector. However, problems and priorities may differ depending on national and local contexts relating to the various thematic areas. The HRBA may be applied in general or specific interventions, programmes or projects relating to the thematic areas covered by the SSF Guidelines, including the issues identified in the above brief explanation and examples.

The application of the HRBA in any policy or thematic area should reflect the three dimensions of rights as goals, rights as process principles, and the identification of right holders and duty bearers. Depending on the nature of issues to be addressed and the organizational, political and cultural context in which it is to be applied, the implementation of the HRBA may pose various challenges.

What are some of the main challenges in applying the HRBA in SSF?

1. The very focus of the approach on root causes and structural issues is a major challenge, because it requires changing established practices, attitudes and privileges. Its focus on power relations could also put it at odds with entrenched interests. Rearranging an RBA fisheries scheme in accordance with the imperatives of the HRBA may require that some people lose or share their fishing rights. Claiming rights and demanding the accountability of duty bearers may create tensions that could turn into conflicts. Handling tensions and creating processes for negotiation and constructive dialogue could be part and parcel of work in applying the HRBA.
2. Addressing the root causes of a problem (e.g. low level of social development in SSF communities) could often be an arduous and time-consuming task. Depending on the incentive structures and other considerations at work, which could include time-bound donor requirements, the interest of a government to show accomplishments before the next election, or the evaluation of responsible officers based on the speed of delivery, there could be a tendency to go for quick fixes which may not address underlying problems. The HRBA often requires a steady hand and long-term political and resource commitments.
3. While the HRBA has been widely accepted in international development cooperation frameworks, it is worth mentioning that it is not a norm that is clearly enshrined in many international instruments. Although challenges to the normative basis of the HRBA are uncommon, they are not non-existent. For example, it was a hotly debated issue in the CFS during the ten-year retrospective on the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security.⁵⁵ However, the HRBA does not need to be defined as a norm in its own right. It is rather an approach that is based on internationally accepted substantive and procedural human rights norms and principles. In any case, the normative challenge to the HRBA does not apply to the SSF Guidelines, which expressly mandate its promotion in their implementation (Article 1.2).

⁵⁴ Jayasuriya, S., Steele, P. & Weerakoon, D. 2005. *Post-Tsunami Recovery: Issues and Challenges in Sri Lanka* (draft); Tourism Concern. 2005. *Post-tsunami reconstruction and tourism: a second disaster?*

⁵⁵ CFS. 2014. *Making a Difference in Food Security and Nutrition: Right to Food Ten-Year Perspective*, CFS 2014/41/7, 41st session, 13–18 October 2014, Rome.

4. In some contexts, it may be culturally or politically sensitive to approach issues from a human rights perspective. This could be the case in rural/traditional and developing country contexts where most SSF communities live. This points to the need to apply the HRBA in nuanced, progressive and context-sensitive ways. In some cases, what may be required is repackaging the language of rights. Many societies and political systems are, for example, supportive of commonly held values such as dignity, participation and non-discrimination. Such principles could be used as a proxy to broader HRBA work if the human rights language causes negative reactions at first. Investment in awareness raising and capacity development can change attitudes over time as the benefits of the HRBA are understood and internalized.
5. The HRBA does not often entail radical changes in the way of doing things, but requires opening up to new perspectives and reorienting some activities. For example, a fisheries management regime may be working well in terms of conservation, but could be wanting in terms of the participation of women and/or the accountability of community representatives. Taking the HRBA angle has clear implications for staff capacity. It is often staff who deal with other technical fisheries issues (e.g. biologists administering the RBA) and who will also be asked to apply the HRBA. Investment in developing the skill sets required of staff through tailored and targeted trainings on the HRBA and promoting intersectoral/ministerial collaborations are essential. In an organizational context, it would be good to have a specialized unit or team that backstops the HRBA work. Considering that there could be other approaches or values that technical staff may be asked to apply or mainstream, such as environmental sustainability, HIV/AIDS and results-based management, it is essential that complementarities are exploited and possibilities of integrated implementation are explored.
6. The long-term commitment, staff capacity and possible reorientation of activities that are required by the HRBA have clear implications for resources. Where there is organizational policy and overall support for the implementation of the approach, it is likely to have more positive results.⁵⁶ The existence of such support will also reflect positively in the allocation of human and financial resources to applying the HRBA.
7. Although the HRBA has been around for a while now, empirical evidence on how applying the approach helps change processes and outcomes for the better is not in abundant supply, particularly in fisheries. This is not to ignore the relevant evidence from the work of donor agencies, national-level policy and legal reforms, human rights litigation, and civil society advocacy.⁵⁷ It rather points to the importance of documenting and sharing good practices in the application of the HRBA and the need to apply the approach more widely and persistently. The shortage of evidence on the HRBA in SSF does not at all undercut the importance of the approach to the sector.

⁵⁶ For example, see: UNICEF. 2012. *Global Evaluation of the Application of a Human Rights Based Approach to UNICEF Programming*.

⁵⁷ For example, see: D'Hollander, D., Marx, A. & Wouters, J. 2014. *Integrating Human Rights into Development Cooperation: A comparative assessment of strategies and practices of donors*. Paper No. 15; Sano, H. 2014. Evidence on demand: an overview of evidence and methods in assessing impact of economic and social rights. *Nordic Journal of Human Rights*, 32(4): 387–402; Arts, K. 2014. Countering violence against children in the Philippines: positive RBA practice examples from plan. In P. Gready & W. Vandenhole, eds. *Human rights and development in the New Millennium: towards a theory of change*, pp. 149–176. London and New York, Routledge.

What are the essential steps in applying the HRBA in SSF?

The implementation of the SSF Guidelines obviously requires multifaceted and multi-layered actions by various actors following different approaches. The HRBA is just one among other complementary ways of implementing the SSF Guidelines. They may, for example, be implemented through executive orders, technical capacity development or civil society campaigns that are not necessarily articulated in human rights terms. The actions of implementation may follow different paths but they often involve preparatory, implementation and final stages that could be looked at along the programme/project cycle even though they are not formally designed as such. **What other strategies of implementing the SSF Guidelines can you think of?**

Analytical frameworks developed for the purpose of applying the HRBA follow either the three lenses approach or the process principles, or the application of the preceding two within a programme or project cycle.⁵⁸ The application of the HRBA along the programme stages of context analysis, design, implementation, and monitoring and evaluation provides the most logical framework, also in relation to SSF. The following subsections identify the major steps to be taken at each stage of a programme cycle, without an assumption of order of importance. Like any attempt at developing generic standards that can apply to differing issues and contexts, the lists of steps to be taken at each stage should be considered as non-exhaustive suggestions. They are meant to be adapted and unpacked in accordance with the nature of the SSF issues to be addressed. They will be enriched and developed with knowledge in the practical application of the HRBA in SSF.

5. CONTEXT ANALYSIS

This stage aims to identify and analyse problems to be addressed and map out pertinent stakeholders in areas of intervention. At the end of the process, key problems and relevant actors are identified in human rights terms. This stage involves:

- ✓ Analysis of policy, legal and other framework documents relating to human rights and SSF, commitments under pertinent international instruments and recommendations of their monitoring mechanisms, and the mandate and activities of all relevant public, private, civil society and other development actors;
- ✓ Identification of factors that facilitate or inhibit the making and implementation of policies and laws, the participation of relevant communities or vulnerable and marginalized groups in decisions affecting their lives, and the ability or willingness of duty bearers to carry out their obligations;
- ✓ Identification of problems to focus on, paying special attention to vulnerable and marginalized groups (with their various causes, e.g. exclusion, discrimination, lack of attention), and the key human rights issues they give rise to, such as impairment and/or violations of certain rights;
- ✓ Analysis of problems, focusing on the root causes of deprivation, gaps in the normative and institutional frameworks, and the actions and/or inactions of relevant actors;

⁵⁸ For example see: UNFPA. 2010. *A Human Rights-Based Approach to Programming: Practical implementation of manual and training materials*; Boesen and Martin, 2007. Op cit.; UNDP. 2006. *Applying a Human Rights-Based Approach to Development Cooperation and Programming: A UNDP Capacity Development Resource*. UNESCO. 2008. *Undertaking a Human Rights-Based Approach: A guide for basic programming*.

- ✓ Determination of target groups and problems to address based on relevant human rights data, existing efforts and comparative advantage;
- ✓ Analysis of the needs, interests, roles, responsibilities and capabilities of group and individual stakeholders in relation to the identified problems from the perspectives of (claiming) rights and (carrying out) duties: i.e. identifying right holders and duty bearers, and determining who does what and why;
- ✓ Assessing relevant accountability mechanisms – judicial and non-judicial, formal and informal;
- ✓ Meaningful participation of stakeholders in the analysis and consultation on the outcome, including through enabling structures and appropriate feedback processes.

6. PROGRAMME DESIGN

Once the context analysis has identified the problems, target groups and human rights issues to be addressed, an intervention programme/project is then designed consisting mainly of objectives, activities and envisaged outcomes from a HRBA perspective in relation to the SSF Guidelines. This generally includes:

- ✓ Setting the objectives mainly in terms of addressing the structural causes of the problems (although addressing immediate needs may be included), and identifying the substantive and/or procedural rights to be achieved as well as the awareness and capacity of right holders and duty bearers;
- ✓ Specifically identifying and targeting vulnerable and marginalized groups;
- ✓ Defining the activities, taking into account the nature and type of the specific programme, which may include technical support to policy and legal reform, strengthening governance structures such as institutions and procedures at different levels, building the capacity of right holders and/or duty bearers, partnerships, and advocacy;
- ✓ Determining the activities to be carried out through participatory and gender-sensitive processes to address issues of exclusion, disadvantage, discrimination or non-realization of human rights, in partnership with other local, national and international actors dealing with similar issues;
- ✓ Articulating the expected outputs in terms of changes to be achieved in the lives of individuals or groups, such as empowerment and inclusion of vulnerable groups, and in the capacity of duty bearers to respond to the problems identified and similar issues in the future;
- ✓ Including clear and transparent operational modalities and mechanisms for receiving feedback, responding to complaints, and resolving possible disputes;
- ✓ Organizing stakeholder consultations to receive the input of pertinent right holders (particularly vulnerable groups), duty bearers and other partners with intersectoral and multi-layered perspectives, making sure that divergent views are seriously considered before final decisions are made.

7. PROGRAMME IMPLEMENTATION

The implementation of a programme or project is the most important stage, in which plans are translated into practice in keeping with the human rights-based context analysis and definition of objectives, activities and outcomes. It is a critical stage of a HRBA programme particularly because of the staff capacity and extra efforts required

to deal with root causes from a rights perspective, and also the challenge of choosing other approaches that may deliver quick results. The implementation of a programme may involve:

- ✓ Providing guidance to relevant state and non-state actors on how to implement a context-sensitive, gender-responsive, human rights-based approach;
- ✓ Making sure that delivery, reporting and budgetary considerations do not overshadow or undermine the need to stay focused on the HRBA imperatives, such as ensuring the meaningful participation of vulnerable groups, and ingraining the values of dignity, inclusiveness, non-discrimination, accountability and transparency in operational procedures;
- ✓ Combining the multifaceted skills and activities that are required to work on structural issues, such as legal and policy development/reforms and organizational and community empowerment at local and national levels;
- ✓ Devising mechanisms for the participation of excluded or marginalized groups in programme implementation, including through their freely formed representative organizations;
- ✓ Addressing power inequalities; recognizing cultural, religious and other differences (e.g. level of marginalization); and promoting self-mobilization and organization among the targeted right holders;
- ✓ Establishing and institutionalizing multistakeholder, cross-sector platforms, which create meaningful interface between right holders, all relevant duty bearers and other institutions dealing with the same or related problems (see Articles 9.3, 13.5);
- ✓ Ensuring flexibility and adaptation in accordance with reasonable feedback and complaints received from stakeholders;
- ✓ Defining clear procedures of implementation and ensuring a constant flow of information about the programme and its activities, with a view to enlisting the active and informed participation of stakeholders, including through general and targeted awareness raising and training.

8. MONITORING AND EVALUATION

Monitoring and evaluation is a process by which the performance of a programme or project is assessed against the planned goals, activities, implementation standards and results. While other useful tools and good practices of monitoring and evaluation should be put to appropriate use, a HRBA further requires looking at the compliance of programme processes with human rights principles and the changes in the conduct and behaviour of right holders and duty bearers (see Article 13.4 of the SSF Guidelines). The steps in monitoring and evaluation could further be considered in the development support to global learning processes on the application of the HRBA in SSF. They include:

- ✓ Making sure that implementation does not cause new or further harm to the rights of the target group, such as exclusion and discrimination;
- ✓ Checking if the programme implementation process is participatory, transparent, respects human dignity, and complies with established legal standards;
- ✓ Identifying and documenting achievements and gaps in the realization of human rights in terms of changes in the conduct of duty bearers and/or in the lives of right holders based on the goals, intended outcomes and indicators

- defined in the programme;
- ✓ Tracking structural changes in policy, legal or institutional frameworks and their implementation in practice, changes in the delivering capacity and accountability of duty bearers, and changes in the participation and capacity of right holders to claim their rights;
 - ✓ Focusing on the rights of vulnerable groups such as women by making use of gender-sensitive indicators and disaggregated data;
 - ✓ Monitoring actual or potential tensions that result from changes in power relations between right holders and duty bearers, with a view to avoiding conflicts;
 - ✓ Making sure that monitoring and evaluation results feed back into policy formulation or adjustment and implementation;
 - ✓ Making use of feedback and complaint mechanisms to allow for stakeholder participation in monitoring and evaluation, including in defining success and failure.

CONCLUDING REMARKS AND QUESTIONS FOR DISCUSSION

Human rights form the foundations of individual or group claims for liberty, equality and well-being. The understanding of development as an overall improvement of people's lives has resulted in the measurement of development processes and outcomes in terms of human rights. Human beings are taking centre stage in the planning, implementation, monitoring and evaluation of development interventions. The rights of small-scale fishers, fishworkers and communities have become the hallmark of SSF development and governance. Their food and nutrition security; the security of their tenure in fisheries and related resources; their health, education, employment, living standards and working conditions; their access to markets and trade; and their protection from the effects of disasters and climate change have become the goals of such initiatives. The processes of related interventions should be participatory, non-discriminatory, transparent, and empowering to the aforementioned people. They should enable the right-holding fishers, fishworkers and their communities to exercise and claim their rights. Likewise, those whose conduct affects the rights of these people are to be held accountable for their actions or omissions based on easily accessible and equally applying rules.

While the foregoing explains what the HRBA basically means, the diversity of policy areas that relate to SSF, the intricate relationships among the multiple actors and the complexity of addressing structural problems in the sector call for specific guidance on the application of the approach in the implementation of the SSF Guidelines. The following are some of the questions that arise in connection with the development of such guidance:

- ✓ Should the guidance for the HRBA in SSF be developed per thematic/policy area or per actor, or both? Which actors need such guidance?
- ✓ Does the determination of actors in either of the two options require the definition of SSF?
- ✓ What should be the exact aim and content of such guidance? Should the development/use of HRBA indicators be an important part of this guidance?
- ✓ What processes should the development of the guidance follow?
- ✓ Are there relevant positive experiences to learn from?
- ✓ How can case studies be promoted/documentated for the development of the

guidance material?

- ✓ What are the possible capacity development needs in the implementation of the HRBA in SSF? What are the best mechanisms for building capacity?
- ✓ What are the prevalent types and nature of power asymmetries that relate to the SSF sector? What are the competing interests or power relation issues within the SSF sector itself?
- ✓ What are the best ways to address power asymmetries that adversely affect SSF communities in the fisheries sector in general?
- ✓ What are the requisites for the use of the HRBA in addressing structural issues with a long-term perspective?
- ✓ What are the competing policy issues in the SSF sector? How can human rights be used to ensure policy coherence?
- ✓ How do you balance conservation and human rights imperatives in SSF?
- ✓ How can we use the HRBA conceptual framework to monitor the implementation of the SSF Guidelines themselves?

Exploring the human rights-based approach in the context of the implementation and monitoring of the SSF Guidelines

Workshop proceedings

24–26 October 2016
Rome, Italy

The SSF Guidelines are based on internationally accepted human rights standards and are to be interpreted and implemented in accordance with those standards. Their objectives are to be met through the promotion of a human rights-based approach (HRBA). This approach seeks to ensure the participation of small-scale fishing communities in non-discriminatory, transparent and accountable decision-making processes by putting particular emphasis on the needs of vulnerable and marginalized groups and developing countries. While the HRBA has been recognized by FAO as a principle that informs the design, implementation, monitoring and evaluation of programmes and projects, there is still limited experience in its practical application in the context of small-scale fisheries. It is therefore important to explore how this approach could support the implementation and monitoring of the SSF Guidelines.

Accordingly, the workshop on “Exploring the human rights-based approach in the context of the implementation and monitoring of the SSF Guidelines” explored what the human rights-based approach means within the context of small-scale fisheries in general and the thematic areas covered by the SSF Guidelines in particular. It discussed what the HRBA entails in terms of the conduct of the various state and non-state actors to whom the SSF Guidelines are addressed as well as the needs of the different stakeholders in the various policy areas, with a view to developing guidance materials for the application of the HRBA in the implementation and monitoring of the SSF Guidelines.

Thirty-two external and FAO staff discussed various thematic aspects of the SSF Guidelines in this respect, and agreed that activities that are geared towards implementing the SSF Guidelines should mainstream the HRBA, while the implementation of the approach in the SSF sector should be continuously explored and case studies and supporting guidance materials should be developed.

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