

Wicked Problems

In implementing the Human Rights-Based Approach (HRBA) in fisheries, the roles of different players need to be judiciously factored in to ensure a level playing field

The Voluntary Guidelines for Securing Sustainable Small-scale Fisheries in the Context of Food Security and Poverty (SSF Guidelines), shepherded primarily by the Food and Agriculture Organization of the United Nations (FAO), is the first document of a similar nature that talks about human rights in the context of small-scale fisheries, more generally. The Code of Conduct for Responsible Fisheries does not do it, for instance. The Tenure Guidelines talk a lot about human rights but mention small-scale fisheries only briefly.

The Human Rights-Based Approach (HRBA) is, therefore, a unique perspective on fisheries governance and management, with implications that are interesting and important. Some would perhaps argue that it goes without saying. People in fisheries do, of course, enjoy the same universal human rights as anyone else. It is, nevertheless, sometimes important to state the obvious, as a reminder, like when Hillary Clinton in her famous speech at the World Women's Conference in 1995 declared that "women's rights are human rights."

It is, however, a novel idea, but not an obvious thing, that fishing-rights regimes should undergo a human-rights litmus test. There are people out there who think that fisheries are too mundane for such lofty ideals and principles. They are more comfortable talking about a "rights-based approach" than a "human-rights-based approach". We know that the two concepts are different and potentially in conflict, despite the fact that they sound alike.

The concept of the "rights-based approach" does not appear in the

SSF Guidelines. For those who reject the idea that it is relevant to talk about human rights in the context of fisheries, with the endorsement of the SSF Guidelines, the train has left the station. We do not need to discuss whether they are relevant or not; now the issue is how to implement them.

The SSF Guidelines speak to states and civil society, and involve a broad set of players—or stakeholders—who will vary according to which paragraph in the SSF Guidelines we are talking about. The word 'stakeholder' suggests that there are groups within or outside small-scale fisheries who may have things to win

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or lose because of the SSF Guidelines. There is no reason to expect that they will sit still and passively witness their implementation. The word "players" indicates that they will act strategically, and that they will try to outsmart or outmaneuver each other. This would perhaps not be so bad if the playing field was level. The SSF Guidelines would hardly have seen the light of day if that was not the case.

Interdependence

As observed in the SSF Guidelines preface: "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

*This article is by **Svein Jentoft** (svein.jentoft@uit.no), from UiT, Arctic University of Norway, Norway*

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, and they do not always agree on things. Would they, for instance, yield to the concept of “preferential treatment”, which is mentioned, for example, 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.”

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


The question is what to do. The first thing, I believe, is to recognize that the SSF Guidelines are entering the playing field that, in many instances, look like a minefield, and I do not only mean this metaphorically, as the SSF Guidelines also mention “armed conflict.” They will have to engage with stakeholders who may not become sympathetic when they get to know about them. I think 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, for reasons that are well known. Co-optation is not necessarily a bad

thing, especially when your cause is legitimate. The implementation of the SSF Guidelines would require a building of platforms where stakeholders can argue about the HRBA and its concrete implementation.

But one would need to be careful about how small-scale fisheries are secured and represented within such arrangements, because they come from an underdog position. There is a clear risk of small-scale fishworkers and their communities becoming disempowered, rather than empowered, if one does not actively try to hinder it.

Government and civil society organizations have both a role to play in building such platforms and to exercise control so that they remain level. They should not need FAO to do it for them, but they may still need a push. Such platforms could be anything from organizations to website forums.

The SSF Guidelines in section 11 recognize the role of the academic community as provider of research-based knowledge. The academic community also has an important contribution to make as watchdog. Since knowledge is power, it can help to level the playing field.

Social scientists often complain that no one listens to them. With the SSF Guidelines, I argue, they could hardly ask for more. Now they need to get involved. Now is their chance to make a real difference. 

For more

lgssf.icsf.net

SSF Guidelines

maritimestudiesjournal.springeropen.com/articles/10.1186/s40152-014-0016-3

Walking the Talk: Implementing the International Voluntary Guidelines for Securing Sustainable Small-scale Fisheries