

Testing Transparency

An access-to-information survey reveals the unwillingness of public authorities and companies in Africa to respect freedom of information

26

TransparentSea is a new initiative that aims to promote access to information and accountability in marine fisheries. It was initiated in 2011 with the support of the Coalition for Fair Fisheries Arrangements (CFFA), a non-governmental organization (NGO) based in Brussels. The main motivation was the tendency of the fisheries sector to be secretive. Citizens, including small-scale fishers, rarely have access to information that is necessary to understand how their marine resources are being exploited. The prospects of responsibly and

countries, among fishing companies, governments of distant-water fishing fleets, international organizations like the United Nations and the World Bank, and among regional fisheries management organizations. Moreover, confidentiality in fisheries in African countries is often conditioned by foreign actors for their own benefit (such as in bilateral fisheries agreements), making it misleading to blame poor levels of transparency on an African governmental culture.

This article describes and comments on the access-to-information survey, and on what further steps could be taken to ensure that transparency is embedded in wider debates on fisheries reform. But, in doing so, we note that there are limits to what improving transparency can do; a more transparent sector is not necessarily a good one.

The access-to-information survey was inspired by the 'access-to-information monitoring tool' developed by the New York-based Open Society Justice Initiative. It was designed to show real-world experiences of access to information, and how NGOs, journalists or members of fishing communities can get certain types of information easily.

It was necessary to limit the scope of the survey and to avoid overburdening fishing authorities with extensive questions and requests for information. We, therefore, focused on two related themes.

Up-to-date information

First, we wanted to test whether citizens can get up-to-date and detailed information on 'fisheries authorizations'—namely, which

equitably managed fisheries are unlikely as long as those in positions of power are impervious to public scrutiny.

TransparentSea's programme in 2011 included an access-to-information survey in 12 African countries, which is hoped to be developed further this year. While organizations and experts are increasingly talking about the lack of transparency in fisheries, this survey was the first effort to provide some evidence and compare situations in different countries. The survey was limited; focusing on levels of transparency in African governments. This is likely to endorse a view that African countries have a unique problem with government openness. However, secrecy in fisheries is equally problematic in many developed

The access-to-information survey was inspired by the 'access-to-information monitoring tool' developed by the New York-based Open Society Justice Initiative.

*This article is by **André Standing** (andre.standing@transparentsea.co) of TransparentSea*

companies fish in their countries, where they are from, how much they pay for fishing access, and what are the terms for the issue of fishing licences. Details were also sought on bilateral access agreements, including their value and the number of boats able to take up fishing opportunities. The European Union (EU) publishes the contract details of its access agreements with African countries; we were thus more interested in information on non-EU access agreements, which include those with China, Russia and Japan.

Secondly, we wanted to test whether citizens can get up-to-date and detailed information on the financial management of their fishing authorities, including budget documents and financial reports. This is important information for citizens to understand what revenues are derived from fisheries, what activities governments prioritize, and whether the resources made available to fishing authorities are sufficient and used well.

The survey was divided into two phases. The first involved participants reviewing publicly available material. In particular, we were interested in examining what information was made available through government websites and annual reports, and whether these exist at all. In the second phase of the survey, participants were instructed to write a letter to their fishing authority asking for some basic documents and facts and figures. The letters were the same for each country and, in most cases, they were sent by email. In two countries, the letter was delivered by hand due to difficulty in identifying the correct email address to use. We then allowed two months for a response, although the survey was kept open for longer in order to include responses that came after two months; that, however, has not actually happened.

Although the survey initially covered 14 countries, it was implemented successfully in only 12 countries: Senegal, the Gambia, Guinea-Bissau, Ivory Coast, Togo, Ghana, Nigeria, Gabon, Kenya, Tanzania, Mozambique and Mauritius.

In each country, we preferred participants from organizations representing the rights of small-scale fishing communities, or independent journalists with a longstanding interest in covering fishing news.

In this type of research it is important to consider the profile of the participant. The Open Society Justice Initiative's access-to-information monitoring tool was implemented by several different people (up to six) in 14 countries. The results suggested that in some countries, who is asking for information has a bearing on whether it is given out. As the survey only used one participant per country, this variable could not be controlled. It is possible that in some countries the participant's job, social standing, ethnicity or gender made it less likely that he or she would receive information from the government. However, we assume that in a country with strong levels of public access to information, it does not matter who asks for information.

Overall, the survey suggested enormous shortfalls in most countries in levels of government transparency. In the first phase of the survey, in most countries participants elicited very little information.

In five countries, fishing authorities do not have websites. Where sites do exist, it was found that, in most cases, these had limited content or had not been updated for over four years. In



KAJSA GARPE

Participants at the TransparentSea meeting at Mbour, Senegal. The meeting found enormous shortfalls in most countries in levels of government transparency

KAJSA GARPE



TransparentSea meeting participants taking a break at Mbour, Senegal.
Lack of transparency can be seen as one factor that marginalizes small-scale fishers

In only one country—Gabon—does the fishing authority publish a list of the individual fishing vessels that are provided government authorization to fish, and this list also contained information on the fees paid by each boat and what was their flag State. This information was available for 2010 only and was made available in a national newspaper. (Gabon does not have a fisheries website or annual report.)

Also, Gabon is the only country where the fishing authority publishes recent information on the cost of each individual fishing licence. In Kenya, the Department of Fisheries announces the cost of a purse-seine fishing licence, although the information is more than four years old and there is no additional information on the cost of licences for other types of fishing vessels, such as longline boats.

Participants in five countries found some publicly available information on non-EU fisheries access agreements. However, the survey revealed no information whatsoever on the value of such agreements, on their contracts and any evaluation of them.

Finding recent budget and financial documents for the fishing authorities was extremely difficult. There was no example where these documents were available on the dedicated website of the authorities. In 10 countries participants failed to locate a budget document or end-of-year financial statement for their fishing authority. In Mauritius, the website of the Ministry of Finance and Economic Development publishes the annual budget and end-of-year financial report for the Ministry of Fisheries. This also includes policy objectives for the fisheries ministry and key achievements.

Unavailable

In Ghana, the budget for the Ministry of Fisheries is available, but only in hard copy. The fishing authority there told our participant that it would provide him with a copy of the budget, but the person authorized to do so was on leave during our survey, and hence

several cases, links to key reports and documents were not working, and contact details for the fishing authority were no longer correct.

In eight countries, the fishing authorities did not publish annual reports. In three countries—Nigeria, Ghana and Guinea-Bissau—participants were aware that the fishing authorities do produce annual reports, but these are kept confidential and only shared within the government or with donors.

In four countries where annual reports are made available to the public, there is a long delay in publishing them. The latest reports for Mauritius, Senegal and Mozambique were from 2009, and for Ivory Coast, 2008. The quality of the annual reports varied, but none contained information on the income and expenditure of the fishing authority or lists of fishing vessels authorized to fish in the country's waters.

In only three countries—Gabon, Ghana and Mauritius—could participants locate recent information on the total number of commercial vessels authorized to fish in their country's waters. However, in Gabon and Ghana, the information was only available for 2010. In Mauritius, the total number of fishing licences sold to both foreign and local firms is detailed in the Ministry of Fisheries annual budget document.

the participant was unable to get the document. In Tanzania and Kenya, there are budget documents available on government websites for the ministry in which the fisheries department is located, but it is impossible to separate the budget for the fisheries department specifically.

In the second phase of the survey—where participants requested information in writing from their fishing authorities—our results were again extremely disappointing.

In seven countries, letters to the fishing authorities went unanswered. Although participants were not instructed to undertake follow-up work, in five countries participants reported sending additional mails, making phone calls and even personal visits. None of this extra effort made any difference.

In five countries, the written requests were acknowledged, but, after a period of two months, a positive response was received only in Mauritius and the Gambia. In Mauritius, the fishing authority provided all requested information within four weeks. This included information on the value of fisheries access agreements, and a copy of the terms of licence agreements. In the Gambia, the Director of Fisheries provided a list of current licensed fishing vessels, but information on the other questions, including financial information on the management of the fishing authority, was not provided.

In the remaining three countries where the authorities acknowledged the letters, they failed to provide any answers to the questions within three months, and did not explain why the requests for information were not successful. In each case, the authorities requested further information from participants on why they wanted the information, which runs counter to the international norm of freedom of information being unconditional for members of the public (meaning that citizens should not have to justify why they want information).

In summary, if there is a view that fisheries management in Africa lacks transparency, then our survey

provides some empirical evidence to support it. Out of 12 countries surveyed, in only Mauritius can we say that the fishing authority displays good levels of transparency. There are still ways in which the fishing authority in Mauritius can improve, such as by publishing its annual report on time, publicly sharing a draft budget for comments, and publishing a full list of licensed fishing vessels.

Gabon also stands out as being the only country that publishes detailed information on the list of commercial vessels that purchase fishing licences, including the fees they pay, although it should be noted that Gabon has done this only for 2010. We know, however, that the decision to publish this list of fishing vessels was encouraged by the World Bank through its lending support. Whether the World Bank is successful in promoting similar levels of transparency in other African countries is a matter that deserves more attention.

However, in the remaining countries, access to information is minimal, and in several countries, non-existent. Our survey suggests

In the second phase of the survey—where participants requested information in writing from their fishing authorities—our results were again extremely disappointing.

that if citizens in these countries wanted to find out basic information on which companies fish in their waters, how much revenue is being generated by commercial fishing, or what is the income and expenditure of their fishing authorities, then they are not able to find this in open-source publications by their governments, and they probably will not get this information if they asked for it.

Poor transparency

Our survey did not give us a good insight into why there are such poor levels of transparency in most the countries surveyed. It is possible that the requests went ignored because

there was no one in the fishing authority designated to act on public requests for information, or it may be the case that the authorities did not want to share this information. This appears to be the case in Nigeria, where the survey participant—E. Umejei, a local journalist—undertook further investigative work after the survey was completed and published an article, dated 11 November 2011, titled “Nigeria’s Fishing Sector in Transparency Crisis” in the *Sunday Independent*. He discovered that Nigeria provided licences to 156 foreign vessels in 2010, but his source at the Department of Fisheries explained that all information on the cost of licences, the names of the companies buying them, and the revenues received by the Nigerian State was ‘classified’.

Improving transparency is an intuitive response to fisheries governance failure. Lack of transparency can be seen as one factor that marginalizes small-scale fishers and coastal communities and it may be important in understanding the political economy of overfishing. Lack of transparency in fisheries affects the rights of fishing communities to participate in decision-making processes that impact on their lives and livelihoods, and their right to free, prior and informed consent—a key principle in international law and jurisprudence.

The latest (2010) State of World Fisheries and Aquaculture Report from the Food and Agriculture Organization of the United Nations (FAO) states: “Lack of basic transparency could be seen as an underlying facilitator of all the negative aspects of the global fisheries sector—illegal, unreported and unregulated (IUU) fishing, fleet overcapacity, overfishing, ill-directed subsidies, corruption, poor fisheries management decisions, etc. A more transparent sector would place a spotlight on such activities whenever they occur, making it harder for perpetrators to hide behind the current veil of secrecy and requiring immediate action to be taken to correct the wrong”.

Despite being an encouraging statement, it is hard to locate evidence that the FAO or other international actors are adopting strong measures to address this problem. The World Bank makes reference to the need for transparency in the ‘wealth-based approach’ to fisheries, framed first and foremost as a condition necessary to provide ‘investor confidence’. But the World Bank’s fisheries projects in Africa are opaque, with hardly any publicly available in-depth evaluations and audits.

A major stumbling block is the lack of willingness of public authorities and companies to respect freedom of information. There are strong vested interests in sustaining confidentiality. Voluntary transparency reforms are often promoted by governments, but these can be disappointing; leading to selected disclosure of information that can easily morph into propaganda campaigns. To be sure, some information is still better than nothing, but what is needed are mandatory rules that provide citizens the right to access information they want, as well as access to justice when this right is ignored. 3

For more

<http://transparentsea.co/>

Transparent Sea

www.soros.org/initiatives/justice/

Open Society Justice Initiative

www.cape-cffa.org/spip.php?article262

Securing Transparency in African Marine Fisheries

fao.org/docrep/013/i1820e/i1820e00.htm

The State of World Fisheries and Aquaculture

pdc.ceu.hu/archive/00002352/01/Access_to_Inform.pdf

Justice Initiative Access to Information Monitoring Tool: Report from a Five-country Pilot Study