

Getting Rights Wrong

The Global Partnership for Oceans is blatantly ignoring the voices of the world's small-scale fisher peoples

The World Bank is notorious for its lack of inclusion of the voices of the poor in the design of its multi-million dollar programmes. The World Bank-initiated Global Partnership for Oceans (GPO), formally launched at the Rio+20 Summit in June 2012, is yet another opaque initiative where the masses of people with opposing views have no say.

The GPO is set to mobilize US\$1.5 bn over five years, which will make it the largest programme of its kind to date and it is, therefore, not surprising to see that more than 100 organizations and institutions have signed the Declaration for Healthy Oceans to become members of the GPO.

Besides the staggering sums of money involved, the GPO Declaration for Healthy Oceans is formulated to attract additional partners from civil society, governments, big business and philanthropic foundations. It is worth noting that most of these philanthropic foundations are, at the same time, funding the international environmental organizations that are listed as 'civil society' partners.

To understand our criticism of the GPO it is necessary to begin by taking a closer look at what the programme is actually about. In the following sections, we will elaborate on the GPO, look into the market-based agenda of the programme, explore the lack of inclusion of fisher peoples, and, finally, present an alternative.

To get a more detailed understanding of the context and processes of the GPO is in itself a challenge, given how difficult it is

to access information relating to the programme. After numerous requests, we managed to secure copies of important documents, and reading through them reveals another truth about the GPO—a truth that cannot be picked up by reading the Declaration for Healthy Oceans.

According to the architects of the GPO, the Declaration for Healthy Oceans “commits the partnership to mobilizing significant human, financial and institutional resources for effective public and private

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investments in priority ocean areas”. The Declaration itself states that the results will be achieved by “creating responsible tenure arrangements, including secure access rights”. This mechanism is further elaborated on in the key document of the GPO, the 57-page-long Framework Document, which is centred on the paradigm of private property rights in fisheries, also referred to as “rights-based fisheries”. In the following section, we will unpack and scrutinize the rhetoric that makes this model of rights-based fisheries seem so appealing.

Panacea

Rights-based fisheries is presented by the World Bank and GPO partners as a panacea for the challenges facing the world's fisheries. The

*This article by **Masifundise Development Trust** (MDT) builds on views and inputs from the World Forum of Fisher Peoples (WFFP) as well as the World Forum of Fish Harvesters and Fish Workers (WFF)*

Framework Document and other GPO documents make numerous references to rights-based fisheries but other terms are also used interchangeably: 'secure tenure rights', 'clear rights', 'secure access rights' or 'spatial rights'. The GPO documents imply that 'rights' refer to 'property rights' and that fish stocks or quotas and/or coastal land or spatial water areas should be owned by private investors.

The literature is full of information on rights-based fisheries" or "a rights-based approach to fisheries management", and many

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proponents openly refer to this system as a form of individual private property rights. This model is also described by some as "the privatization of the oceans". In the United States, these programmes are known as 'catch shares'. In Iceland, Chile, South Africa and New Zealand, they are called 'individual transferable quotas' (ITQs).

The European Commission refers to 'transferable fishing concessions' (TFCs), while in Africa, the World Bank-funded New Economic Partnership for African Development (NEPAD) and the African Union (AU) call them 'wealth-based fisheries'.

Over the last few decades, we have witnessed a shift from State ownership toward private ownership of fishing rights in the countries where rights-based fisheries have been introduced. The characteristic features of such programmes are that 'rights' are freely given to selected owners, usually based on 'catch history', are fully transferable (can be leased, bought or sold, or otherwise exchanged or transferred), and are effectively permanent.

In analyzing the social and environmental impacts of rights-based fishing, firstly, it is important

to stress the significance of small-scale fisheries. At the global level, approximately 140 mn people are engaged in catching fish in rivers, lakes and at sea. Approximately 90 per cent of the fisher people work in the small-scale fishing sector, and predominantly in the South. These small-scale fisher peoples harvest half of the world's total catch by volume.

For each fisher in the small-scale sector, an additional four people, on average, are engaged in land-based activities, such as the preparation of equipment, fish processing, and marketing. In total, more than half a billion people depend on fisheries for their livelihoods. These numbers are confirmed by the World Bank.

All over the world, we see a similar pattern when rights-based fisheries have been introduced: a concentration of fishing rights in the hands of rich elites and corporations, and a reduction in the number of boats and people who make a living from fishing.

After the introduction of rights-based fisheries in South Africa in 2005, the incentive for taking care of marine resources vanished in many coastal areas. For generations, small-scale fishers have maintained a traditional system of taking care of the environment.

This stewardship builds on the multi-species characteristic of small-scale fisheries, where fishers shift from catching one species to another, depending on species availability, on a seasonal basis, using a variety of gear.

The introduction of the single-species rights-based fisheries led to the exclusion of 90 per cent of the country's 30,000 fisher peoples. The minority 10 per cent of the fishers who were allocated a quota under the new system were only allowed to catch one particular species, and, hence, the traditional multi-species fishery was lost.

Illegal fishing

A significant number of fishers who lost the means to feed their families

were forced to disobey the law and many became the first in a chain of illegal fishing and export. In this process, fishers lost respect for the traditional rules and practices and unchecked illegal and unregulated fishing began to threaten fish stocks. Contrary to what is a fundamental assumption of the GPO, rights-based fisheries worked as a disincentive to fish responsibly.

The negative impacts of rights-based fisheries in traditional fishing communities triggered unrest, protest campaigns and, ultimately, a litigation process against the South African Minister for Fisheries.

In May 2007, after a two-year-long litigation process, the judge of the Equality High Court issued a Court Order that compelled the State to finalize a policy framework that will effectively accommodate small-scale fishers within the allocation of fishing rights by recognizing and giving protection to their economic, social and cultural rights.

In 2012, the government endorsed a new small-scale fisheries policy, which “aims to provide redress and recognition to the rights of small-scale fisher communities...previously marginalized and discriminated against...in terms of individualized permit-based systems of resource allocation and insensitive impositions of conservation-driven regulation”. In other words, the new policy recognized the inappropriateness of rights-based fisheries.

In Denmark, rights-based fisheries has led to a substantial draining of the fleet from traditional fishing communities—many communities no longer have any active fishing vessels, and others have less than 50 per cent of the vessels that were active prior to the introduction of the system in 2005.

Thomas Højrup, a professor at Copenhagen university, describes the Danish ITQ system as replacing the race to fish with race for ITQs, as increasing the incentive to high grade, replacing ecofriendly catch methods with sea-floor disturbing methods (heavy bottom trawling). Furthermore, he argues that the system is disastrous

for the entry of young fishers. Fishing rights have been transformed into financial assets, making fisheries deeply dependent on the banks, replacing fishermen-owned boats and their share system with companies owned by quota barons and wage labour. This has subordinated fisheries directly to speculative transactions and the whims of financial markets.

In Chile, a new law, which took effect in February 2013, allocates 93 per cent of the fish resources to four companies and the remaining seven per cent of the quotas has to be shared by approximately 80,000 artisanal fishers. When the ITQ policy was first introduced in 2001, it was argued that the private ownership would promote stewardship and ensure the rebuilding of overfished stocks. But to this date, and according to government data on fisheries, 70 per cent of the commercial fish stocks under the ITQ system remain overfished.

The US catch share system was introduced in New England in 2010 to halt what was perceived as ‘the race for fish’. By 2013, just three years later, the catch share system has resulted in a significant accumulation of quotas to bigger vessels. According to the director of marine fisheries in the State of Maine, this has

BEATRICE GORÉZ / CFFA



Pirogues, the fishing craft used by Senegal’s traditional artisanal fishermen, coming in to land fish at the harbour

NOOR AIDA



Women sorting fish in the Jaring Halus village, Secanggang District, Langkat Regency, North Sumatra Province, Indonesia

their catches brought in about \$300 mn on Spain's frozen-fish market. Meanwhile, very little wealth from the resource was retained in Namibia for the benefit of Namibian citizens.

In Iceland, some 428 fishing companies closed down in the five-year period between 2003 and 2007, as large companies bought up the quotas held by small-scale fishing ventures. By 2007, more than half of the overall quotas were owned by just 10 companies.

Two of the excluded fishers alleged that Iceland's ITQ system violated the International Covenant on Civil and Political Rights (ICCPR), because the system forced them to pay money to a privileged group of citizens—the owners of fishing quotas—in order to pursue their occupation.

In October 2007, the Human Rights Committee (HRC) under the ICCPR ruled that Iceland's ITQ system did indeed violate international law. The HRC ruled that the two fishermen should be compensated for their losses, and that the Icelandic government should change legislation to give effect to the HRC's decision.

In summary, these examples document how rights-based fisheries leads to *de facto* exclusion of small-scale fishers and the concentration of fishing rights with the financial powerful elites and corporations. They provide evidence that rights-based fisheries is incompatible with sharing of national wealth in an equitable manner and, in particular, with small-scale fishing, and is likely to result in the loss of traditional fisheries management practices.

Stewardship

Furthermore, they show that the fundamental argument in support of rights-based fisheries, that 'private ownership promotes stewardship', is nothing more than an assertion that does not appear to be true. Rights-based fisheries builds on neoliberal ideology rather than on facts. The millions of fisher peoples from all over the world whose concerns are taken up by the World

significantly contributed to declines in fish abundance. In Alaska, small-scale fishing communities have disproportionately lost fishing rights, with native villages being especially vulnerable as collective fishing lifestyles are being replaced by individual private fishing rights for the elite.

In New Zealand, small-scale fishers were disadvantaged with the introduction of ITQs by the fact that commercial banks would not consider their quotas as collateral for lending. A small-scale fisher without either a large quota allotment or a large bank account struggles to acquire more quotas when his or her own share is too small to be economically viable. Small-scale fishers cannot borrow against other assets as larger companies are able to do. This has made it easier for large firms to buy up many of the tradeable quotas.

In Namibia, ITQs were introduced in 1992. Research has shown that, in terms of 'stewardship', there is no evidence of increased voluntary compliance by the fishing industry. Furthermore, capital flight in the fishing industry is rampant under this system. About 75 per cent of the Namibian hake market is controlled by Spanish companies, under joint-venture arrangements, and in 2010

A DECLARATION FOR HEALTHY, PRODUCTIVE OCEANS TO HELP REDUCE POVERTY

We the Participants in the Global Partnership for Oceans, commit to develop and help implement this Partnership, in recognition of humankind's dependence on healthy oceans to feed the planet's growing population, support millions of livelihoods, contribute hundreds of billions of dollars annually to the global economy, and to provide essential environmental services, including climate regulation.

Despite global commitments made to date as well as the efforts of many organizations, governments, enterprises and individuals, the oceans remain under severe threat from pollution, unsustainable harvesting of ocean resources, habitat destruction, ocean acidification and climate change.

Building upon and better coordinating existing efforts and programs, including in support of the United Nations Convention on the Law of the Sea, our Global Partnership will convene stakeholders to mobilize significant human, financial and institutional resources for effective public and private investments in priority ocean areas. These investments will improve capacity and aim to close the gap in implementing global, regional and national commitments for healthy and productive oceans.

The Partnership Will Work toward Meeting the Following Interrelated Objectives by 2022

Sustainable seafood and livelihoods from capture fisheries and aquaculture

In line with previous internationally agreed commitments* and taking into consideration growing impacts of climate change:

- Significantly increase global food fish production from both sustainable aquaculture and sustainable fisheries by adopting best practices and reducing environmental and disease risk to stimulate investment;
- Reduce the open access nature of fisheries by creating responsible tenure arrangements, including secure access rights for fishers and incentives for them to hold a stake in the health of the fisheries; and
- Enable the world's overfished stocks to be rebuilt and increase the annual net benefits of capture fisheries by at least \$20 billion, including through reducing subsidies that promote overfishing.

Critical coastal and ocean habitats and biodiversity

In line with previous internationally agreed targets and to address the growing impacts of climate change:

- Halve the current rate of natural habitat loss and reduce habitat degradation and fragmentation, by applying ecosystem-based approaches to management;
- Increase marine managed and protected areas, and other effective area-based conservation • measures, to include at least 10% of coastal and marine areas; and
- Conserve and restore natural coastal habitats to reduce vulnerability and increase resilience • to climate change impacts.

Pollution reduction

In line with previous internationally agreed commitments and taking into consideration the growing impacts of climate change:

- Reduce pollution to levels not detrimental to ecosystem function and biodiversity; and
- Support implementation of the Global Program of Action to reduce pollution, particularly from marine litter, waste water and excess nutrients, and further develop consensus for achievable goals to reduce these pollutants.

The Global Partnership for Oceans is an inclusive partnership of Governments, civil society organizations, private sector companies and associations, research institutions, UN agencies, multi-lateral banks and foundations whose membership will grow over time. We will contribute resources according to our respective comparative advantages which may include capability for implementation, knowledge, and/or monetary support towards investment on behalf of healthier oceans in a number of priority ocean areas.

A Global Partnership for Oceans Fund will be established and governed by a committee representative of the diversity of the membership and stakeholders of the Global Partnership for Oceans, and with an advisory process that will ensure that investment choices are evidence-based. Within the next six months, the partners will seek to finalize the governance and working arrangements for the Partnership.

*Note: The previously agreed international commitments and targets referenced in this Declaration include those made in Rio in 1992 in Agenda 21, and subsequently at Johannesburg in 2002 and in the Aichi Biodiversity Targets in Nagoya in 2010.



Forum of Fisher Peoples (WFFP) or the World Forum of Fish Harvesters and Fish Workers (WFF) have not been invited to, nor involved in, any preparatory processes of the GPO, and at the time the GPO Declaration was drawn up, it was clear that the GPO promotes values and systems that contradict the fundamental value systems underpinning the vast majority of small-scale fisheries around the world.

The GPO is described as an ‘inclusive partnership of public, private and civil society organizations and governments’, but it is open only to those who formally endorse the GPO Declaration.

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Both the WFFP and WFF perceive rights-based fisheries as a threat to nature, and to small-scale fisheries, in particular, and are, therefore, not prepared to endorse the Declaration.

As a consequence, both these worldwide bodies, who represent by far the largest number of fisher peoples around the world, are effectively excluded from engaging in the GPO. The claim of the GPO to be an ‘inclusive partnership’ is, therefore, highly questionable.

This *de facto* exclusion of the vast majority of the world’s fisher peoples from decisionmaking in reform processes is a fundamental denial of their rights as reflected in numerous international instruments, including the ICCPR; the Convention on the Elimination of All Forms of Discrimination Against Women; the Declaration on the Rights of Indigenous Peoples; and the Millennium Declaration (para. 25).

Contrary to what the GPO claims, it is possible to develop fishing policies for sustainable fisheries which do not build on private-

property rights, but which, instead, are based on the principles of social and environmental equity and communal and human rights.

First and foremost, the importance of empowerment and inclusion of fisher people in fisheries governance and management has been increasingly acknowledged over the past few decades.

The FAO-led process of developing the International Guidelines for Securing Sustainable Small-scale Fisheries (SSF Guidelines) is a recent example of how small-scale fisher peoples are becoming increasingly recognized as key stakeholders, and supporting the empowerment of small-scale fishing communities to participate in decisionmaking is cited as being fundamental towards achieving the overall goal of the SSF Guidelines in the latest draft text.

In the human-rights-based approach to fisheries, the notion of ‘rights’ is distinctly different from those under rights-based fisheries. It must be recognized that the benefits from fish resources include social, environmental and economic components, while the GPO fundamentally rests on a purely economic rationale.

Non-monetary benefits include the sharing of power, democratic development, empowerment of fisher peoples, decreased conflict, increased food sovereignty and enhanced social cohesion. The value of these benefits exceeds the importance of monetary gains.

Fisheries experts and organizations representing fisher peoples from around the world have argued that economic incentives for resource stewardship is insufficient when there are other sources of insecurity in people’s lives that are unrelated to the state of fishery resources.

Fisheries governance


More secure, less vulnerable fishers make more effective and motivated fishery managers in the context of participatory and a human-rights-based approach to fisheries governance.

The UN's Special Rapporteur on the Right to Food has also taken up the issue of fisheries and the right to food, making explicit the link between the right to food and the rights of those who produce it, to fair access to resources such as land and water, and to obtain a fair share of the benefits from their labours.

He has spoken out against “ocean-grabbing” in his report on Fisheries and the Right to Food submitted to the United Nations General Assembly in 2012. Rather, he favours the involvement of local fishing communities in the design, implementation and assessment of the fisheries policies and interventions affecting them, in accordance with human-rights norms and standards.

Integral to the human-rights-based approach is gender equity and the promotion of the rights of women, which are based on universal principles enshrined in national and international legislation. Worryingly, the GPO completely fails to recognize the role and importance of women in fisheries, and reinforces the fact that women have fewer opportunities than men—also in terms of decisionmaking in fisheries.

WFFP and WFF have called on governments and inter-governmental institutions to abandon the GPO and impose an immediate and complete stop to initiatives pursuing rights-based fisheries as a ‘cure-all’ for fisheries.

Furthermore, our global organizations have urged governments and inter-governmental institutions to direct their human and financial resources towards a strengthened engagement with the world's small-scale fisher peoples and the finalization and implementation of the SSF Guidelines. 

For more

masifundise.org.za/wp-content/uploads/2013/03/WFFP-WFF-Call-on-Governments_GPO_200313.pdf

Call for governments to stop supporting the global partnership for oceans and rights-based fishing reforms

onlinelibrary.wiley.com/doi/10.1111/j.1467-2979.2011.00405.x/abstract

Rights-based fisheries governance: from fishing rights to human rights

www.havbaade.dk/thenecessity.pdf

The need for common goods for coastal communities