

**Good Practices in the Governance of Small-Scale Fisheries,
with a Focus on Rights-Based Approaches**

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Introduction

This paper presents a review of what are seen as ‘good practices’ globally in policy and governance of small-scale fisheries, with a particular focus on addressing rights-based issues, viewed broadly as incorporating fishery rights, other rights to natural resources, and rights and entitlements in relation to human, social and economic rights. It draws extensively on the 1995 Code of Conduct for Responsible Fisheries and related technical guidelines, particularly those concerning small-scale fisheries and their roles in poverty alleviation and food security, and the human dimensions of the ecosystem approach to fisheries. The paper is also strongly informed by the papers prepared for and outcomes of the 2008 Global Conference on “Securing Sustainable Small-Scale Fisheries: Bringing together responsible fisheries and social development” and the relevant rights-oriented components of the ‘Bangkok Statement’ produced by the Civil Society Preparatory Workshop for the Global Conference. It also draws upon a set of research documents in the international literature focusing on small-scale fisheries and related policy issues [e.g., Allison et al. (2010), Charles (2009, 2011), McConney and Charles (2009); Kurien (2000, 2007)].

2. Small-Scale Fisheries, Rights and Requirements

Small-scale fisheries are found around the world, providing a major source of food (and particularly protein) to millions of people globally, as well as a key source of livelihoods, with the vast majority of the world’s fishers being located in small-scale fisheries. Such fisheries, while not as technologically ‘advanced’ as more industrial fisheries, are typically much more complex systems, involving close interactions with coastal communities, the harvesting of a wide range of multi-species fish resources, the use of complex traditional management and knowledge systems, and the pursuit of a multitude of objectives.

While the complexity of small-scale fishery systems has meant that, at various times in the past, they have been seen as intractable we have learned over time that proposed solutions have often suffered from overly-simplistic diagnostics leading to inappropriate policy measures being applied to them. At one point, for example, policies of ‘modernization’ and capital intensification dominated, having been put in place without a real understanding of the values and dynamics of local fisheries. A similar overly-simplistic policy in recent times has been the promotion of narrow ‘rights-based management’ perspectives. Both of these policy directions – ‘modernization’ and ‘rights-based management’ – can certainly be relevant in some situations, but as this paper will illustrate in the case of rights-based management, good practices require a more nuanced and context-sensitive perspective, notably a recognition of the variety of ways in which rights arise naturally, and need reinforcing, in small-scale fisheries.

Related to this, the FAO's Advisory Committee on Fishery Research (ACFR) Working Group on Small-Scale Fisheries (2004) stated a 'vision' for small-scale fisheries as:

'...one in which their contribution to sustainable development is fully realized... where:

- they are not marginalized and their contribution to national economies and food security is recognized, valued and enhanced;*
- fishers, fish workers and other stakeholder have the ability to participate in decision-making, are empowered to do so, and have increased capability and human capacity, thereby achieving dignity and respect; and*
- poverty and food insecurity do not persist; and where the social, economic and ecological systems are managed in an integrated and sustainable manner, thereby reducing conflict.'*

The original Code of Conduct for Responsible Fisheries (FAO, 1995; article 6.18) contains few explicit references to small-scale fisheries, but notably it does state:

'Recognizing the important contributions of artisanal and small-scale fisheries to employment, income and food security, States should appropriately protect the rights of fishers and fishworkers, particularly those engaged in subsistence, small-scale and artisanal fisheries, to a secure and just livelihood, as well as preferential access, where appropriate, to traditional fishing grounds and resources in the waters under their national jurisdiction.'

This latter paragraph refers to two specific kinds of rights needed on the part of fishers and fishworkers, and 'particularly those engaged in subsistence, small-scale and artisanal fisheries'; one is the right 'to a secure and just livelihood' and the other the right to 'preferential access, where appropriate, to traditional fishing grounds and resources'. This highlights the two very different ideas arising when the word 'rights' is used in fisheries discussions. On the one hand, 'fishery rights' define who can go fishing and who can be involved in managing the fishery. On the other hand, the human rights, as well as social and economic rights, of fishers, households and communities will interact with management decisions taken in the fishery.

Those in the fishery management field tend to focus solely on the former in referring to rights-based fishery management, while those dealing with development concerns and human well-being tend to focus on the latter. Indeed, these two categories of rights have typically been treated separately, but there is now an emerging emphasis on good practices that link human rights and fishery rights – e.g., FAO (2007); Civil Society Preparatory Workshop (2008). This paper examines some of these good practices, and their use in practice.

3. Small-Scale Fisheries: Good Practices

There has been so much written about small-scale fisheries, with so many different 'frameworks' being presented, that it can be a challenge to discern the major thrusts of what is needed in relation to these fisheries. Here, based on a review of material on the subject, seven key categories of essential 'good practices' are suggested:

- 1. Adopt a 'rights-based' approach that links fishery rights and human rights**
- 2. Ensure secure access rights to a fair share of fishery resources**
- 3. Provide good governance, organizational capacity, legal space & empowerment**

- 4. Adopt an integrated system-oriented community-focused approach**
- 5. Adopt an appropriate sustainable development approach**
- 6. Strive for food sovereignty and household/community well-being**
- 7. Include beyond-fishery policy measures and livelihood diversification options**

The first three of these ‘good practices’ categories relate directly to ‘rights-based’ considerations, and most of this paper is devoted to their discussion. A brief treatment of the other categories is included later in the paper.

3.1 Adopt a ‘rights-based’ approach that links fishery rights and human rights

The term ‘rights’ may lead most people to think first of *human rights*, but as noted above, the focus in fishery management circles has been more on ‘fishery rights’. Indeed, until recently, one would be hard pressed to find any mention of human rights in fishery policy debates. However, drawing on definitions of the overall nature of human rights, as well as accompanying social and economic rights, from the United Nations (1948), recent efforts have examined the specific manifestations of such rights in fisheries and fishing communities. Notably, attention has been drawn to this by international organizations of fishers and fishworkers and their supporters (WFFP and ICSF, 2008), and with coverage in legal and policy debates. This has led to development of ‘good practices’ with regard to fisheries management and policy, in that fishery rights – both (a) to access fishery resources and (b) to be involved in management decision-making – are now seen as best discussed alongside human rights, particularly in small-scale fisheries.

Fishery rights may be held by individual fishers, fishing communities or companies, and can involve not only rights over access to the fishery, but possibly also to a specified amount of fishing effort or fish catch, as well as rights to be involved in managing the fishery. These rights are typically discussed in the context of achieving more effective management, both by specifying who is involved in the fishery (and potentially how much), and by bringing fishers and others more actively and supportively into the management process.

However, in a small-scale fishery setting, such fishery rights may also have impacts on the wellbeing and security of fishers and fishing communities; the effects may be positive, given suitable recognition, design and implementation of rights, but negative impacts are also possible (Charles, 2001; Béné *et al.*, 2010). Notably, fishery rights can affect human rights, and conversely, the pursuit of human rights can alter how fishery rights are designed and implemented, such as decisions concerning who should hold those rights, and how they should be managed (Charles, 2009). Such linkages are important in particular in addressing the challenge of poverty in fishing communities. The FAO (2007, p. 6) connects these together for small-scale fisheries, noting that:

‘A rights-based approach, in defining and allocating rights to fish, would also address the broader human rights of fishers to an adequate livelihood and would therefore include poverty-reduction criteria as a key component of decisions over equitable allocation of

rights, including in decisions over inclusion and exclusion, and the protection of small-scale fishworkers' access to resources and markets.'

The World Forum of Fisher People (WFFP) and the International Collective in Support of Fishworkers (ICSF), together with many other civil society organizations, defined a human rights approach in fisheries within the 'Bangkok Statement' (Civil Society Preparatory Workshop, 2008) noted above. Subsequently, the WFFP and ICSF, in a briefing note for the FAO Committee on Fisheries (ICSF-WFFP, 2009, p.3), highlighted that a human rights-based approach in fisheries:

'recognizes that development efforts in fisheries should contribute to securing the freedom, well-being and dignity of all fisher people everywhere. Given the international consensus on achieving human rights, committed action to realizing the human rights of fishing communities, as indeed of all vital, yet marginalized groups and communities, is an obligation.'

The organizations note further that:

'The adoption of a human rights approach has an intrinsic rationale as achieving human rights of all citizens is an end in itself. Adopting this approach also has an instrumental rationale in that it is likely to lead to better and more sustainable human development outcomes.'

The approach of ICSF-WFFP (2009, p.3) includes the rights of fishing communities:

'(a) to their cultural identities, dignity and traditional rights, and to recognition of their traditional and indigenous knowledge systems', (b) to access 'territories, lands and waters on which they have traditionally depended for their life and livelihoods', (c) 'to use, restore, protect and manage local aquatic and coastal ecosystems', (d) 'to participate in fisheries and coastal management decision-making', (e) 'to basic services such as safe drinking water, education, sanitation, health and HIV/AIDS prevention and treatment services' and (f) of all fish workers 'to social security and safe and decent working and living conditions'.

Furthermore, ICSF and WFFP (2009, p. 3) specifically note the rights of women to:

'participate fully in all aspects of small-scale fisheries', to have access to 'fish resources for processing, trading, and food, particularly through protecting the diversified and decentralized nature of small-scale and indigenous fisheries', and to utilize 'fish markets, particularly through provision of credit, appropriate technology and infrastructure at landing sites and markets'.

While the above indicates that there are many considerations involved in a human-rights approach to small-scale fisheries, some key aspects could be summarized (Kearney, 2007) as: (1) the right to fish for food; (2) the right to fish for livelihood; (3) the right to healthy households, communities and cultures; (4) the right to live and work in a healthy ecosystem

that will support future generations of fishers; and (5) the right to participate in the decisions affecting fishing.

Attention to livelihoods and poverty reduction in the context of small-scale fisheries is directly related to fishery rights. Allison and Horemans (2006, p. 760) have noted that in fisheries, *‘Livelihoods approaches are evolving and merging with rights-based approaches and community-development...’* and that *‘Addressing governance therefore remains the key challenge for both poverty reduction and responsible fisheries’*.

FAO (2007) describes multiple attributes of the link between small-scale fisheries and human rights:

‘In the case of small-scale fisheries, a broad human-rights approach to social development makes good use of existing legal and policy frameworks; provides a basis for investment and action that does not rely solely on cost-benefit analysis (for which data are seldom available); engages a wide range of development actors; and is compatible with the broad architecture of development assistance, including the MDGs. Adopting a rights framework also reminds fishery managers, community leaders, fish consumers and donors that small-scale fishers have a right to development, and that governments are accountable for helping them realise that right.’

In particular, the connection of artisanal and subsistence fishing to food security and livelihoods is an important element in considering human rights and fishery rights (Schumann and Macinko, 2007). Consider, for example, the case of South Africa. Jaffer (2006, p. 22-23) reports that in a dispute between the artisanal fishing sector and the government in South Africa, artisanal fishers argued that legislation relating to fisheries management, the Marine Living Resources Act, *‘deprived them of their right to choose their trade or occupation’* and that *‘the current legislative framework violates a number of other basic socio-economic rights, most notably, the right of access to sufficient food’*, but also the *‘right to healthcare, housing and education, and the rights of the child to basic nutrition’*.

Finally, in considering the need to integrate fishery rights with human rights, FAO (2005) suggests the need for actions beyond the fishery itself:

‘States should consider legislation in support of the various international conventions on: right to food; women’s rights; the right to earn a living; the right not to be discriminated against; the right to education; and other secure outcomes given that anyone lacking such rights can be considered poor under the recent broadening of the poverty concept. National legislation can give effect to such rights either through specific legislation on issues which will support such rights, or through enshrining such rights in constitutions, to which all national legislation is subsidiary.’

The *Bangkok CSO Statement* contains a number of provisions on these wider issues (e.g. paragraphs 17, 25 and 26).

3.2 Ensure secure access rights to a fair share of fishery resources

Perhaps the most common concern of small-scale fishing communities is that of access to the resources they need for their livelihood and food security. Such ‘use rights’ – the rights to access and ‘use’ the resources, are referenced in the Code of Conduct Article 6.18 (quoted above).

Thus ‘when designing management measures, it might be appropriate to consider those which provide exclusive or preferential access for small-scale fisheries. Zoning, for instance, could favour and protect access to the resource by small-scale fishers, amongst whom the poorest are likely to be found’ (FAO 2005, paragraph 2.7.6)

Furthermore, CCRF Article 10.1.3 states, not only for fisheries specifically but pertaining to coastal resources in general:

‘States should develop, as appropriate, institutional and legal frameworks in order to determine the possible uses of coastal resources and to govern access to them taking into account the rights of coastal fishing communities...’.

Secure access rights are clearly beneficial to those holding them, whether an individual fisher, a fishers’ organizations, or a fishing community. If access rights are managed well, they can reflect a desired balance of social, cultural, economic and environmental goals, they can assist in reducing conflict, they can enhance food security and livelihoods for small-scale fishers and fishing communities, and they can facilitate the protection of local ecosystems, notably if rights-holders support or initiate conservation actions. In addition, another rationale for ensuring small-scale fishery access rights is noted by FAO (2005):

‘Promoting the small-scale over the industrial sub-sector may bring efficiency gains for the fisheries as a whole in addition to social benefits for the small-scale sub-sector.’

The importance to sustainable, responsible fisheries of use rights systems is discussed later in this paper; here, the ‘good practices’ related to access rights and other use rights are explored. It should be noted as well that there are significant issues to be addressed in restricting fishery access, notably relating to equity considerations, and to impacts on poverty and vulnerability of households and communities (see, e.g., Béné et al., 2010).

Use rights can come in various forms – the main categories of such rights relate to access, to fishing effort, or to catch levels. First, access rights can involve designating who can fish (e.g. through traditional means or formal licenses) and potentially their fishing space as well. The latter has a particularly long history in traditional, small-scale/artisanal and indigenous fisheries worldwide through Territorial Use Rights in Fishing (TURFs) and Customary Marine Tenure. These involve rights assigned to individuals and/or groups to fish in certain locations, often on the basis of long-standing tradition (‘customary tenure’). As with any management mechanism, these are not suitable in all cases, but in the right circumstances, they may provide an efficient, effective means of fishery management. For example, in the fisheries of Oceania, while traditional CMT/TURF systems declined as fisheries were ‘modernized’, there is increasing recognition of the efficiency of such systems, and initiatives to reinforce them.

The other two main categories of use rights, involving rights to certain levels of fishing effort (effort rights) or fish catch (harvest rights), tend to be less common in small-scale fisheries than the more straightforward access rights. However, there can be a place for these as well, if the amount of fishing or the catch of each fisherfolk unit (individual or community) can be suitably monitored. This can provide a mechanism to share not only access to the fishery, but also the benefits coming from that access. In any case, the choice among use rights options is a serious one that requires a careful assessment of the implications of each.

Not only the type of use rights but the allocation of the use rights needs consideration. As noted above, use rights can be allocated to individual fishers or held in a collective manner by a community, or a fishers' association. There is a long history in small-scale fisheries of fishing rights being held collectively within a particular community (cf. Charles, 2006), and as Panayotou (1982, p.44) has suggested some time ago, *'The revival and rejuvenation of traditional community rights over coastal resources offer, perhaps, the best possible management option for scattered, remote and fluid, small-scale fisheries.'*

Indeed, group or community-defined rights have the potential to bring people in a community together to use the fishery resources to suit their specific local situation, to maximize overall benefits, and to reflect community values and objectives (Willmann, 2000; Charles, 2001). The Code of Conduct technical guidelines argue that these community-based rights are particularly suitable to 'pro-poor' policies for small-scale fisheries (FAO, 2005):

"By restricting the access to the resources to a well-identified group, community property rights help to reduce the risks of overfishing, thus preventing the fishers from falling into the downward spiral of poverty and resource overexploitation associated with open access regimes. At the same time the fact that these property rights are granted to groups rather than to individuals may ensure a certain level of equity within the community by allowing all members (including the poorest) to access the fishing grounds and therefore to rely on fishing to sustain their livelihoods. The concept of community property rights is therefore particularly attractive from a poverty alleviation perspective in the context of small-scale fisheries in developing countries."

A 'good practice' that is fairly common globally is the introduction of exclusive artisanal fishing zones. Sharma (2008) notes that *"Many countries around the world, such as India, Peru, Chile, Thailand, Malaysia, Marshall Islands, Guinea Bissau, Mauritania, Venezuela, Indonesia and the Philippines have introduced exclusive artisanal fishing zones, often under pressure from their small-scale sectors..."* while also recognizing that *"enforcement of these zones remain a persistent problem..."*. In some cases these zones may be policy measures while in other cases they may be included in legislation. As an illustration of legislative measures to deal with access rights, Sharma (2008) also notes that *"The Constitution of Venezuela (Article 305) offers an important example where the State has committed to protect the settlement and the fishing grounds of artisanal fishing communities along the coast..."*

3.2.1 Recognizing existing use rights

The benefits of access and use rights to fishers and communities, in providing some security over their fishing grounds, has motivated the emergence of such rights arrangements in a

wide range of locations around the world. Documentation of past and present ‘indigenous’ use rights includes, for example, many cases in the Pacific Islands – see, e.g., Johannes (2002); Ruddle (1989); Veitayaki (1998). For further discussion of this, see Dyer and McGoodwin (1994) and Hanna et al. (1996). Béné et al. (2010, p.338) has suggested that the emergence of rights systems is a general reality:

‘Anyone who has worked closely with small-scale fisheries in developing countries knows that the access to fisheries (in particular, small-scale coastal or inland fisheries) is always conditioned by some form of formal or informal, symbolic or substantial, control systems generally established at the local/community level.’

If a use rights system already exists, then only if it is for some reason unsustainable or unsuitable will it be necessary to implement a new system. Indeed, if the system is well accepted, suitably effective, and meeting current objectives in the fishery, as well as criteria of equity and sustainability, then the key may well be to accept and reinforce these traditional rights.

However, this may need some qualification, notably in relation to matters of equity and fairness. What happens when the status quo set of use rights is seen as inappropriate in the context of broader national priorities and policy directions? In South Africa, for example, national policy goals have driven use rights decisions within the fishery sector, as the transformation from a period of apartheid into one of democracy meant that broadening the right to access the fishery has been a matter of urgency (Cochrane and Payne, 1998). The former allocation of use rights did not pass the test of equity and fairness. The reality is that policy directions need to provide guidance on which parties in the fishery are to receive priority with respect to use rights (e.g., small versus large vessels, community versus corporate participants, etc.).

Finally, it is also important to keep in mind that decisions involving use rights can affect not only current fishers but potential participants as well. This implies that it may be considered unfair to restrict participation in discussions of use rights to only the current fishers.

The *Bangkok CSO Statement* contains a number of provisions on integrating traditional knowledge and customary law in fisheries management decision-making and securing and protecting traditional rights of small-scale fishing communities and indigenous peoples (e.g. paragraphs 1, 7, 9 and 23).

3.2.2 Good practices in design of use rights systems

Given the recognized desirability of restricting fishery access through use rights, there may occur situations in which – with no use rights in place, or current rights seen as ineffective or unacceptable – a use rights system will need to be designed and implemented. Various use rights options exist, and no single approach will be applicable everywhere – each use rights option has its inherent advantages and limitations, so that what is ‘best’ will depend on the specific situation. As Nomura (2006, p.25) has noted:

‘...fisheries policies, management approaches—and fishing rights—need to be tailored to the specific context of countries and localities with respect to the fisheries in question, the social setting, culture, etc.’.

This reinforces the broad point of Kuperan and Raja Abdullah (1994, p. 306):

‘Planning and setting objectives for management of small-scale coastal fisheries requires a good understanding of what is meant by small-scale coastal fisheries, the resource attributes, the traditional values of fishing communities, the institutional arrangements and the overall environment in which small-scale fisheries operate.’

In designing a use rights system, factors to take into account will include (a) societal objectives, (b) relevant history and traditions, (c) relevant social, cultural and economic environment, (d) key features of the fish stocks and the ecosystem, and (e) financial and personnel capacity of the particular fishery (Charles, 2002). While there are no clear rules concerning which use rights are most compatible with which fishery, experience provides some tentative guidance. For example, (1) sedentary fishery resources may be especially amenable to the use of territorial rights (TURFs), (2) access and/or effort rights may be preferable to harvest rights (quotas) if biomass estimates are unavailable or unreliable, or if catch monitoring is too expensive, and (3) in fisheries with many different gear types, harvest rights may be preferable, while management of fisheries in which the fishing technology is relatively uniform may focus on effort rights.

Of course, these points do not cover all possible scenarios, and in any given case, the importance of each of the fishery characteristics must be weighed in assessing the pro’s and con’s of use rights options, before arriving at a desired solution. Indeed, any single use rights approach may be unable to produce optimal results, so it is likely better to pursue a ‘portfolio’ of rights - a combination that is most acceptable, helps the fishery operate best, and maximises benefits for the given context.

Processes for allocating use rights can also be challenging. Some approaches, such as auctions or ongoing markets for use rights, are not generally suitable for small-scale fisheries, since the community and social values that are crucial in such fisheries are typically ignored in these approaches. For example, as Panayotou (1982, p.43) notes, *‘Auctioning or market sale of a limited number of licences is certain to exclude many small-scale fishermen who have poor access to funds to bid for or purchase a licence.’* On the other hand, use rights allocated on a collective basis directly to communities, fishing sectors or other identifiable groups can help in empowering communities and allowing for local values to be reflected, but must ensure that possible imbalances in power within the community do not lead to inequitable results in the allocation of rights.

A final matter of discussion regarding use rights is that of transferability – whether the access rights can be transferred to others. This could be permanently (e.g. by selling those rights, or handing them down in a family from one generation to the next), or temporarily (e.g. by transferring the rights to another fisher within a fishing season). The choices can have large impacts on small-scale fisheries and fishing communities. Good practices in this regard tend to favour temporary transferability, within a fishing season (and with the rights then reverting to the original fisher at the end of the season) as a means to provide important short-term flexibility while maintaining long-term stability in the distribution of the rights. For permanent transfers, good practices call for attention to local cultural and institutional factors. Subject to this, transferability is considered reasonable within households, or even

families, but not through the use of market mechanisms (buying and selling rights). The latter tends to lead to concentration of control over rights to access the fishery, and a shift of these rights out of small communities and into larger centres. This in turn has negative effects on rural livelihoods, on community stability and sustainability, and on equity in the coastal economy (Copes and Charles, 2004).

To conclude, four key points connected with access and use rights can be reiterated:

- use rights are crucial in the pursuit of sustainable, responsible fisheries, and come in conjunction with *responsibilities* for stewardship and conservationist use of the fishery resources;
- use rights, of various forms, already exist in many fisheries, and need to be recognised;
- if the current rights system is considered ineffective or unacceptable, a suitable replacement must be developed and implemented;
- use rights need to be appropriate to the cultural and historical situation, the policy directions, and the financial and personnel capacities of the particular fishery.

3.3 Provide good governance, organizational capacity, legal space & empowerment

Experience in fisheries throughout the world has demonstrated that while undoubtedly the secure access rights discussed above are crucial for the wellbeing of small-scale fishers, this must be accompanied as well by what are called ‘management rights’, the right to be involved in fishery management decision-making. Management rights are referred to in the Code of Conduct’s (Paragraph 6.13) call to ‘*facilitate consultation and the effective participation of industry, fishworkers, environmental and other interested organizations in decision-making with respect to the development of laws and policies related to fisheries management, development, international lending and aid*’.

This call for consultation and participation in fisheries management is seen as a component of good governance – with governance referring to ‘*the full range of public and private interactions taken to solve societal problems and create societal opportunities*’ through ‘*dynamic institutions and processes that permit key management interventions at the appropriate scales and times*’ (McConney and Charles, 2009).

This in turn reflects a shift away from a mode of operation in which management was done largely (within a commercial fishery context) by government officials. While in general, the State has the responsibility for management, and indeed holds the liability in case of mismanagement, it has become clear over time that management practised in a top-down manner is quite likely to be unsuccessful. To make management more effective and conservation more likely, the conclusion has been that management requires the support (or at least acceptance) of fishers, accompanied by some degree of self-regulation. As McConney and Charles (2009) note, ‘*A key trend in institutional design lies in acknowledging the value of participation by all fisheries stakeholders, and some level of empowerment of those stakeholders. This move, one that is crucial in supporting self-organization, leads to forms of co-management...*’ Such co-management involves the joint development of management measures by fishers, government and possibly local communities – see, for example, Berkes et al. (2001), Pinkerton (1989), Pomeroy (2001) and Wilson et al. (2003), among many others. As FAO (2005) notes, ‘Co-

management is also expected to promote improvements in public accountability and to foster empowerment of poor and vulnerable groups’.

Who should hold fishery management rights? Government is typically involved, and the above discussion suggests that fishers (those with use rights) should be among the rights-holders. Indeed, at the operational level of management, involving measures that affect the fishing process directly, it is particularly important for fishers to hold management rights, so as to encourage compliance at sea. At the strategic level, debates over the fishery’s overall objectives and policy directions are typically matters of public interest, in which the general public, nongovernmental organisations (NGOs) and fishing communities in particular, are typically seen as legitimate interested parties, in addition to the fishers. For example, legislation in the Philippines places management rights over coastal ‘municipal fisheries’ (notably small-scale community-based fisheries) clearly at the level of the local municipality.

In implementing management rights, and co-management in particular, a set of ‘good practices’ have emerged from the analysis of abundant examples worldwide. It is clear, for example, that *‘a variety of human aspects must be taken into account, such as (1) existing, historical and/or traditional management approaches, (2) cultural and community preferences for management, (3) the current knowledge base and human/ technological capacity for management, and (4) the monitoring and enforcement capability’* (McConney and Charles, 2009).

In addition, FAO (2005, section 2.7.3) lists the following factors as contributors to success in co-management:

- *‘explicit recognition of the political dimension of co-management and the reallocation of power and responsibilities through enabling policies and legislation;*
- *ensuring financial sustainability beyond donor intervention;*
- *co-management objectives defined by stakeholders and not simply imposed by outside agencies;*
- *strong central government capacities;*
- *cooperation of and support of, but not domination by, local government and local political elite; capacity building of both community and supporting local government agencies;*
- *adoption of a gender-balanced perspective, and acknowledgement of the position of women both within the community and within the sector;*
- *the ability of grassroots organizations and NGOs to have a positive influence over co-management, but a recognition that their involvement may not be “value-neutral”;* and
- *recognition that not everyone in a community will have the same interests and the same capabilities.’*

3.3.1 Communities and fishery management rights

The particular management rights option of community-based fisheries management takes a ‘place-based’ approach to involving fisherfolk, and potentially others within a coastal community or coastal region, in fishery management decision-making. This is essentially a matter of assigning management rights specifically on a community basis (whether to the set of fishers in a community, or to the community itself). As FAO (2005) indicates:

‘Fisheries management should not be looked upon as a hierarchal activity involving “managers” and “the managed”. It is now well established that when fishing communities are involved in the formulation of policy and in the decisions regarding management measures and their implementation and regard these policies and decisions as their own, regulations gain considerable legitimacy. The likelihood of achieving compliance with regulations is therefore enhanced.’

While community management rights cannot be expected to work in every fishery, Berkes (1986, p.228) proposes that a community-based approach *‘provides a relevant and feasible set of institutional arrangements for managing [particularly] small-scale fisheries in which the community of users is relatively homogeneous and the group size relatively small’*. Other aspects facilitating the approach’s effectiveness seem to be: *‘cohesiveness of the community involved, experience in and capacity for local management, geographical clarity of the community, a modest overall size and extent, and an institutional framework in which rights are specified through a combination of legislation, government decisions and traditional/informal arrangements’* (Charles, 2011).

In some cases, a factor in utilizing community management rights may be an understanding and revival of former management systems. As Panayotou (1982, p.45) notes: *‘Such revival would necessitate a removal of the factors responsible for the breakdown of these traditional management systems by: (a) explicitly allocating the coastal resources to artisanal fisheries; (b) dividing these coastal resources among fishing communities...’*.

In the absence of these various conditions, community rights may not be feasible, but when they are met, the benefits of such a system of rights can be considerable. Community-based rights systems can draw on local institutions, as well as moral pressure, to create incentives for resource stewardship. This in turn can increase management efficiency, and improve the implementation of local enforcement tools. Furthermore, a key element with community rights is that the system can take into account a broader range of fishery participants within a community, including boat owners/captains, crew members, shore workers, etc., and thereby support equity and fairness goals (Graham *et al.*, 2006).

Among the many documented experiences with co-management globally, a classic example specifically of community-level management rights is that of the Punta Allen lobster fishery in Mexico (Sosa-Cordero *et al.*, 2008). In that case, both access rights and management rights are clearly defined, providing an increased degree of stewardship and sustainability, as well as security of livelihoods for the local fishers.

3.3.2 Organizational Capacity and Institutional Development

While good governance of small-scale fisheries requires the effective *participation* of fisherfolk and fishing communities, there is often a need to support and build the *capacity* of organizations/associations of fishers, as well as community institutions, in order to accomplish this. Furthermore, the reality is that capacity development is often needed in governments as well, so that governmental staff and institutional arrangements understand the needs and rights of small-scale fishers and communities. Overall, then, ‘good practices’ in good governance imply

suitable attention to a wide range of capacity and institutional development. As FAO (2005) has highlighted:

‘Especially important at the organizational, institutional and individual levels is the need to... enhance the capacity in organizations representing and working for small-scale fisheries – e.g. those concerned with technical fisheries management issues, social welfare, credit/savings and marketing, and political negotiation or lobbying.’

The *Bangkok CSO Statement* expresses the need of support to capacity building of fishing and indigenous communities to participate in governance of coastal and fisheries resources.

3.3.3 Legal space and empowerment

While good governance for small-scale fisheries requires the participation of fishers and fishing communities in management and policy-making, real participation also requires accompanying efforts at empowerment, and fundamentally the ‘legal space’ (notably through legislation and clear policy) for fisher organizations and fishing communities to be able to take on management responsibilities. McConney and Charles (2009) state that:

‘Decentralized and devolved governance holds potential for greater success... but only if there are adaptive policy environments that enable self-organization, for example, through adoption of a subsidiarity approach that places decision making at the lowest, most local level feasible.’

With respect to legislation, FAO (2005) notes that participation in management needs to cover the spectrum from the harvesting process to higher levels of decision making:

‘...small-scale fishers and fishworkers must be included in the process of developing legislation (both within fisheries and in other sectors), even if the process is prolonged. Only by doing so can it be hoped that conflicts will be minimized and that legislation will really address the needs and potentials of poor small-scale fishers and fishworkers and have a measure of legitimacy.’

If the focus is on ‘pro-poor’ approaches, empowerment must go beyond policy and legislation to look also at how participatory processes are implemented at the community level. FAO (2005) cautions that:

‘Devolving management responsibility to the local level, for example, may not be sufficient to ensure the interests of the poor are adequately represented. “Communities” are usually stratified by wealth and power, with local elites and decentralized governments sometimes colluding to exclude the less powerful. ...fisheries development programmes should examine ways in which “traditional” leadership, local government and civil society can work together to ensure that the interests of poorer and marginalized groups are taken into account in decentralized resource management.’

Allison et al. (2010) provide the following recommendation with respect to empowerment:

‘Support empowerment of fishing communities, both through their social inclusion and building their capabilities. Transition to (human + property) rights-based fishing requires relationships between fishing rights-holders and duty-bearers (such as governments) to be

transparent and based on mutual trust and accountability. ...Community institutions must be strengthened and approaches must be cross-cutting and integrative.'

The latter point about community institutions implies that empowerment requires local initiatives that go beyond the fishery per se. As FAO (2005) indicates:

...Community development and empowerment through the provision of education, social services, welfare and health improvements, are all important in ensuring that the contribution of small-scale fisheries to poverty alleviation and food security is increased, and that fisheries-specific strategies aimed at doing so are likely to be successfully implemented.'

3.4 Additional 'Good Practices' for Small-Scale Fisheries

(a) Adopt an integrated system-oriented community-focused approach

A fishing community perspective is typically 'integrated' (in that the community necessarily deals simultaneously with multiple economic sectors, social issues and environmental realities) and 'system-oriented' (in that the interactions between people, among organizations and between society and nature are inherent within a community). On the other hand, conventional fishery management and policy is often contained within a fishery 'silo' and neglecting interactions of the fishery with other productive sectors, with local environments, and local institutions. There is a need to return to the more integrated, systems-oriented approach to small-scale fisheries, an approach that simply reflects the reality of these fisheries.

McConney and Charles (2009) note that:

'Coastal, small-scale, and/or tropical fisheries are typically multi-species, focused more on an ecosystem and on a community of people trying to make a living, rather than an isolated set of fishers exploiting a specific stock. ...management approaches need to pay attention to the broader fishery system, recognizing the pervasive interactions between the core of the fishery (fish and fishers) and all the other elements of the ecosystem and the human system.... In particular, a key part of broadening the perspective on SSF lies in seeing beyond the harvest sector, paying more attention to post-harvest processing, marketing, and distribution...'

A key part of a systems approach to dealing with small-scale fisheries is the adoption of an 'ecosystem approach to fisheries' (EAF). While this approach certainly pays attention to the fishery ecosystem as well as the specific fish stocks being caught, it also has strong human dimensions (De Young et al., 2008) that need to be taken into account.¹

Furthermore, the ecosystem approach provides a link to integrated management of coastal and ocean areas. As McConney and Charles (2009) note,

'combining into fishery management both an ecosystem approach and a livelihoods approach ...leads us to draw linkages with integrated ocean and coastal management. This is a natural connection, especially in the context of SSF, since integrated approaches are characterized by a

¹ A discussion of the ecosystem approach to fisheries (EAF) and aquaculture (EAA) are presented in another background paper.

multiplicity of resources and habitats, a range of environmental variables, and a balancing of attention to both natural and human systems and dynamics...'

(b) Adopt an appropriate sustainable development approach

A sustainable development perspective involves the pursuit of development goals (notably the Millennium Development Goals) in a manner compatible with environmental sustainability. Since small-scale fisheries, like all others, are susceptible to over-exploitation, a key reality to take into account is that environmental sustainability is in fact a prerequisite for food security, poverty alleviation and other development objectives. Accordingly, Allison et al. (2010) provide the following recommendation for small-scale fisheries:

'Address over-exploitation that threatens resource sustainability and the flow of benefits from fisheries to the wider economy as a priority objective of a shift towards rights-based fisheries management. As well as defining rights to fish, the rights of present and future generations to benefit from the resources should be included. Building the value of the resources should be an explicit objective of fisheries management in the small-scale sub-sector...'

Fortunately, a range of studies from around the world show that effective local self-management has often evolved within small-scale fisheries. There are 'benefits of the commons', in that common-pool small-scale fisheries can be sustainable, and indeed the 'commons' nature of local fisheries can actually be beneficial in producing strong local stewardship. However, not all small-scale fisheries are in good condition – there can be serious over-exploitation, whether driven from within the fishery, or as a result of external influences, including those from governments (e.g. through 'modernization' drives), that harm local stewardship practices. Thus, the need for rebuilding depleted resources and addressing the roots of over-exploitation are crucial in small-scale fisheries. Key elements in achieving this include avoiding open access conditions, and finding the right form of rights over access and use – to ensure that small-scale fisherfolk have secure access and incentives to support and be involved in stewardship of fishery resources.

(c) Strive for food sovereignty and household/community well-being

Small-scale fisheries have increased their profile in international policy with the realization of the major role they play, or could play, in enhancing food security and poverty alleviation. This counteracts the '*tendency globally to focus on industrialized, larger scale fisheries involved in commodity production and trade*' (McConney and Charles, 2009) and '*In the context of poverty alleviation, Béné et al. (2007) note that systems are being put in place to facilitate what are often traditional self-organized production and marketing chains, in order to benefit from these lower supply costs that contribute to food security and food sovereignty.*'

The importance of small-scale fisheries to food sovereignty and community well-being is also reflected in the Code of Conduct (1995) where Article 11.2.15, in addressing international fish trade and export production, notes that:

'States, aid agencies, multilateral development banks and other relevant international organizations should ensure that their policies and practices... do not result in environmental

degradation or adversely impact the nutritional rights and needs of people for whom fish is critical to their health and well-being and for whom other comparable sources of food are not readily available or affordable.'

In connecting small-scale fisheries with goals of food sovereignty and local well-being, Allison et al. (2010) provide the following recommendation:

'Integrate responsible fisheries policies with wider poverty reduction policies in countries where fisheries are economically important. This is ...important for ensuring that fisheries agencies receive an appropriate allocation of central and local government budgets, and that small-scale fishing communities are included equitably in national economic development and social development planning.'

(d) Include beyond-fishery policy measures and livelihood diversification options

The Code of Conduct technical guidelines (FAO, 2005) highlight that in small-scale fisheries, policy and governance considerations need to look beyond the fishery:

'In addition to policy specifically for the fisheries sector, there are (i) cross-sectoral policies at the national level, (ii) policies in other sectors, and (iii) local policies – all of which can impact on small-scale fisheries. Those wishing to support the contribution of small-scale fisheries to poverty alleviation and food security should thus strive to engage in policy processes in other sectors.'

CCRF Article 10.1.2 specifically refers to fisher participation in broader decision-making for coastal areas:

'In view of the multiple uses of the coastal area, States should ensure that representatives of the fisheries sector and fishing communities are consulted in the decision-making processes and involved in other activities related to coastal area management planning and development.'

A “bigger picture” perspective recognizes that the fishery ‘silo’ really connects to a range of policy and legal frameworks, and to the well-being of coastal communities. This perspective is needed in order to address in a holistic way the many issues facing small-scale fisheries. For example, ensuring access rights to subsistence fishing in coastal communities may serve food security goals, and incorporating post-harvest aspects in rights discussions may help reinforce the rights of women involved in marketing fish. Allison et al. (2010) note that beyond-fishery needs include improving *‘value-addition in the supply chain, infrastructure, market cooperatives, and access to credit’* and *‘addressing deficiencies in fishing people’s rights of equitable access to health care, education, and community services’*.

Moving to a ‘bigger picture’ perspective will involve better understanding linkages among the various forms of rights, both within the fishery system itself and in a multi-sectoral context, so as to produce more comprehensive approaches to managing small-scale fisheries, ones that are better able to improve wellbeing and safeguard livelihoods. Within this context, McConney and Charles (2009) note that:

‘...there is a need to deal with inherent linkages between fisheries and other human activities, especially in coastal and marine sectors such as aquaculture and tourism, as well as coastal communities and fishing households. A “livelihoods approach” (e.g., Allison and Ellis 2001) broadens fishery discussions to emphasize the entirety of individual, household or community sources of well-being and livelihood (income), and in particular how individuals, households and communities develop “portfolios” of livelihood sources.’

Allison et al. (2010) provide a particular recommendation of good practices as follows:

‘Support improvements in the broader governance context including access to justice and mechanisms for conflict resolution by advocating for the fair treatment of fishers under the rule of law and their equitable participation in inter-sectoral decision-making. Conflicts between small-scale and commercial/industrial sectors, other fishing groups, and other users of coastal and riverine environments (tourism, transportation, industry, etc.) are widespread, and typically put small-scale fishers, particularly the poorest, at a serious disadvantage.’

(e) Ensure effective, transparent and inclusive information

If small-scale fisheries are to maintain their role as a key provider of sustainable livelihoods and food, achieve their potential for poverty alleviation, and shift toward a good governance framework that is more participatory, suitable information generation and use, as well as appropriate communications, are essential. As FAO (2005) highlights:

‘The current policy shift towards decentralization of management responsibilities and the importance of small-scale fisheries in poverty alleviation and food security requires a reconsideration of the type of data and information necessary, and the way data are collected, used and disseminated. In addition to more appropriate (pro-poor oriented) information and research, there is also a need to develop better communication strategies to improve the flow and dissemination of information related to small-scale fisheries and their contribution to poverty alleviation, rural development and food security.’

This perspective on good practices with respect to information and communication is reinforced with a link to governance (McConney and Charles, 2009) as follows:

‘The new approach in [small-scale fisheries] is to pay more attention to converting data from several sources into information for decision making and communicating the information to all stakeholders— to facilitate the transparency and accountability needed for good governance.’

A related aspect relating to information concerns the source of that information, in particular the existence of ‘local knowledge’ held by fishers and communities in a certain location (and also known as traditional ecological knowledge or fisher knowledge). CCRF Article 12.12 states:

‘States should investigate and document traditional fisheries knowledge and technologies, in particular those applied to small-scale fisheries, in order to assess their application to sustainable fisheries conservation, management and development...’

Finally, good practices in information acquisition involve the participation of small-scale fishers in determining knowledge needs and in the resulting research itself. This reflects an increasing recognition that the participation of fishers in management that is part of good governance is more effective if they are also involved in dealing with the underlying information base. The result has been a trend toward participatory research involving fishers and fishing organizations, in many locations. In the best situations, this becomes institutionalized (for example, within community-based fishery management) as a built-in participatory research component.

4. Conclusion

This paper has described what can be seen as ‘good practices’ in meeting some of the key needs of small-scale fisheries, particularly from the ‘rights’ perspective. Drawing on a review of wide-ranging publications on small-scale fisheries, seven key categories of essential ‘good practices’ are suggested:

Good Practices in Small-Scale Fisheries

1. Adopt a ‘rights-based’ approach that links fishery rights and human rights
2. Ensure secure access rights to a fair share of fishery resources
3. Provide good governance, organizational capacity, legal space & empowerment
4. Adopt an integrated system-oriented community-focused approach
5. Adopt an appropriate sustainable development approach
6. Strive for food sovereignty and household/community well-being
7. Include beyond-fishery policy measures and livelihood diversification options

It is important to note that ideally, these various elements will be combined together. Likely no fishery has achieved a perfect record on this, but some certainly have made progress. As one example, Harris et al. (2007) report on the ‘Sokhulu project’ in South Africa, which was meant to address access concerns, illegal fishing, over-harvesting and conflict in a mussel fishery, notably through co-management involving subsistence fishers. Over time, the initiative produced success on multiple fronts. First, there was ‘*formal restoration of access rights*’ for those fishers, and ‘*lively participation by both fishers and authorities*’ (i.e. suitable management rights). Second, there evolved a stewardship capability in which ‘*fishers representatives... persuade other fishers of the need for sustainable management*’. Third, ‘*information sharing*’ and ‘*direct involvement of fishers in research*’ took place, along with ‘*provision of training for both partners of co-management*’ (Harris et al., 2007). Of course, these various measures – and the underlying integrated approach of the project – also served goals of food sovereignty, local well-being and human rights, as indicated in the set of good practices.

Of the good practices relating specifically to rights in fisheries, this author suggested previously (Charles, 2008) that the linking of fishery rights and human rights, in particular, reflects an historic shift away from a ‘simplistic’ approach, one which focused on fishery rights while neglecting human rights, to a more balanced perspective. The new thinking recognizes that in small-scale fisheries, there are benefits of secure access to the fishery – more security for the rights-holders and a greater incentive to take care of the resource into the future – but attention is also needed to the details of the fishing rights. This includes matters of (1) who holds the rights

(which matters to community wellbeing, food security, and poverty alleviation), (2) whether there are pre-existing rights (which most often should be reinforced, for the sake of efficiency, equity and good governance), and (3) how fishing rights connect with other rights (since there can be significant impacts on social, economic and human rights). Furthermore, it is worth emphasizing that rights held by communities ('community rights') may be particularly effective in some small-scale fisheries, providing strong opportunities for local development and resource stewardship.

Figuring out the right form of rights requires an understanding of all these realities, as well as a broader perspective that must include post-harvest aspects, and indeed must look beyond the fishery 'silo' in addressing rights. Indeed, attention is needed to the relationship of fishery rights to the overall objectives of development policy. Hersoug (2006, p.7), drawing on the work of Béné (2003) on poverty and fisheries, concludes that:

'The point is simple: rights-based fisheries management may secure some type of ownership, be it individual or collective. But we need to secure rights for the right people. That can only be done through institutional reforms...'

The focus of this paper has been on good practices relating to governance of small-scale fisheries, and in particular the above considerations of rights in these fisheries. However, it is certainly the case that along with rights go responsibilities. The FAO Code of Conduct for Responsible Fisheries (1995, article 6.1) states: 'The right to fish carries with it the obligation to do so in a responsible manner...'. A key aspect in moving toward responsible fisheries thus lies in developing effective and accepted sets of both rights and responsibilities among fishers. As Jentoft et al. (1998, p. 434) note: 'When rights of management and property go together, property is not only a right but also a responsibility for the collective as well as the individual. Without that responsibility there is no guarantee that property rights may institute sustainable resource use.' Indeed, one might suggest that good practices in small-scale fisheries, and indeed any fisheries, must simultaneously include a broad perspective on rights-based management, and a suitable focus on 'responsibilities-based fisheries management'.

In compiling 'good practices' for management, policy and governance of small-scale fisheries, this paper has drawn heavily on the Code of Conduct for Responsible Fisheries guidelines (FAO, 1995, 2005, 2009) and from a number of other publications – notably Allison et al. (2010); Charles (2009, 2011); Civil Society Preparatory Workshop (2008); ICSF-WFFP (2009); McConney and Charles (2009). While an assessment and understanding of key policy needs in small-scale fisheries, and the 'good practices' required to move in the direction of these goals, is certainly necessary, it is crucial to take the next steps to utilize this understanding in a concrete manner to achieve real progress in meeting the potential of the world's small-scale fisheries.

In recent years, a consensus has emerged that the preferred approach to achieve this is through an international instrument, such as an addition to the Code of Conduct or a Plan of Action, and a global program of assistance, as new global initiatives to support small-scale fisheries. Many of the essential ingredients for these are to be found in the 'good practices' highlighted in this paper, as well as the related publications noted above (where specific measures relating to each of the categories of this paper are to be found). While moving from words to actions will require

considerable care in formulation and implementation, meeting the great potential of small-scale fisheries globally to help achieve Millennium Development Goals, and particularly to help alleviate poverty and contribute to food security, will undoubtedly make the efforts worthwhile.

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