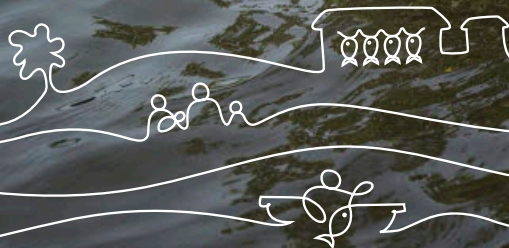




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Organization of the  
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# Applying coherently the human rights-based approach to small-scale fisheries for achieving multiple Sustainable Development Goals

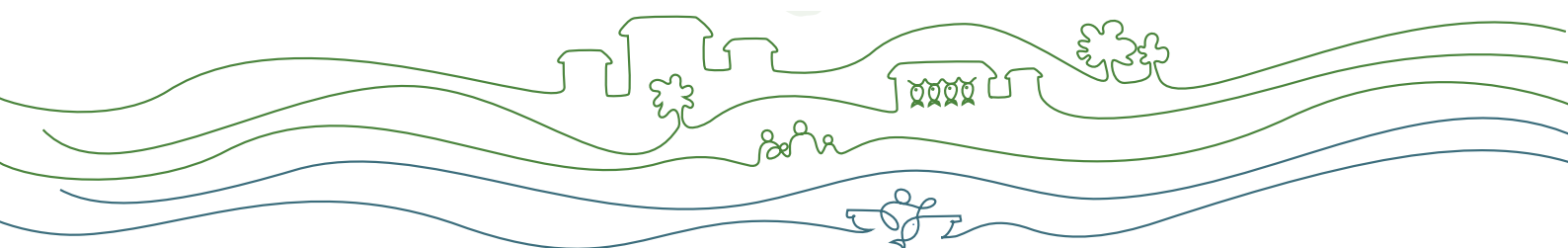
Policy Brief



INTERNATIONAL YEAR OF  
ARTISANAL FISHERIES  
AND AQUACULTURE  
2022

## Key messages:

- Implementing the *Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication* in accordance with a human rights-based approach means ensuring the protection and promotion of all human rights of small-scale fishers, fishworkers and their communities in a coherent manner. This requires ensuring specific guarantees for children's human rights, gender equality, the human rights of Indigenous Peoples and peasants, and the protection of environmental human rights defenders in the small-scale fisheries sector.
- Coherent protection of the human rights of small-scale fishers contributes to the realization of multiple Sustainable Development Goals and also benefits everyone's human right to a healthy environment.
- In support of the International Year of Artisanal Fisheries and Aquaculture (IYAFA) 2022, continuous work is needed to: raise awareness of the human rights challenges that small-scale fishers, fishworkers and their communities face, including those of marginalized groups within them; build new and strengthen existing partnerships around the coherent protection of human rights in the sector; and provide a platform to amplify the voices of human rights-holders in the small-scale fisheries sector.



# Introduction

Small-scale fisheries operate in inland and marine waters, providing nutritious food, income, jobs, and a social and cultural identity for millions of coastal and rural communities around the globe. Small-scale fishers represent more than 90 percent of the capture fisheries workforce globally, about half of which are women (FAO, 2022a). While progress has been made to improve small-scale fisheries' sustainability, small-scale fishers continue to face marginalization, climate change vulnerability, discrimination, insecure land tenure, and access to water and marine resources. Lack of access to health care, education, social protection, adequate food and nutrition, and abusive and exploitative working conditions are some of the daily realities of fishers, fishworkers, and their communities (OHCHR, 2022).

The *Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication* (SSF Guidelines) (FAO, 2015), adopted in 2014 by consensus of Member States of the Committee on Fisheries of the Food and Agriculture Organization of the United Nations (FAO), recognize the need to uphold small-scale fishers' human rights. The message in the SSF Guidelines is clear: their objectives<sup>1</sup> should be achieved through the promotion of a human rights-based approach, by empowering small-scale fishing communities, including both men and women, to participate in decision-making processes, and to assume responsibilities for sustainable use of fishery resources. This should also support placing emphasis on the needs of developing countries and the benefit of vulnerable and marginalized groups.

Implementation of the SSF Guidelines following the human rights-based approach (HRBA) requires multifaceted and multilayered actions through a participatory multistakeholder process (FAO, 2017a). In support of the *International Year of Artisanal Fisheries and Aquaculture* (IYAFA) 2022, continuous work is needed to advance the recognition, protection and promotion of human rights in the small-scale fisheries sector.

In the context of IYAFA 2022, FAO, the Office of the High Commissioner for Human Rights (OHCHR) and the collaborative research initiative One Ocean Hub have been collaborating to raise awareness of the full scope of the human rights-based approach to small-scale fisheries (OOH, 2022a). This policy brief aims to clarify the scope of the human rights-based approach to small-scale fisheries, including the corresponding State obligations, and to highlight how the coherent protection of these rights supports the realization of multiple Sustainable Development Goals (SDGs).



Nazirhat, Bangladesh – Shokina and Forida work to dry the fish.  
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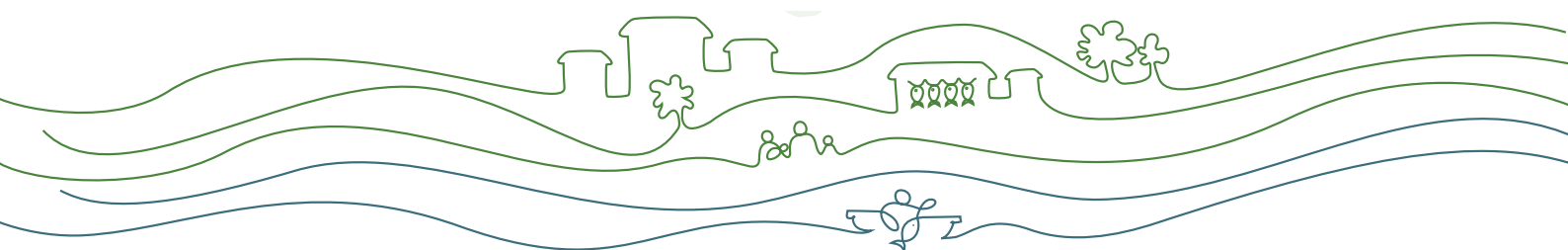
1. These objectives include: to support the progressive realization of the right to adequate food; to improve the socio-economic situation of fishers and fishworkers; to achieve the sustainable utilization, prudent and responsible management and conservation of fisheries resources; to provide guidance for the development and implementation of ecosystem friendly and participatory policies, strategies and legal frameworks; and to enhance public awareness and promote the advancement of knowledge on the culture, role, contribution and potential of small-scale fisheries, considering ancestral and traditional knowledge.

# 1. The international legal framework relevant to the human rights-based approach to small-scale fisheries

The SSF Guidelines should be implemented in line with the core international human rights treaties, to which States Parties are bound, and other human rights instruments (FAO, 2022b; Nakamura, 2022), including:

- the 1948 Universal Declaration of Human Rights;
- the 1965 International Convention on All forms of Racial Discrimination;
- the 1966 International Covenant on Civil and Political Rights;
- the 1966 International Covenant on Economic, Social and Cultural Rights;
- the 1979 Convention on the Elimination of All forms of Discrimination against Women;
- the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- the 1990 Convention on the Rights of the Child;
- the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families;
- the 1998 ILO Declaration on Fundamental Principles and Rights at Work;
- the 2004 Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security;
- the 2007 Convention on the Rights of Persons with Disabilities;
- the 2007 UN Declaration on the Rights of Indigenous Peoples;
- the 2011 UN Guiding Principles on Business and Human Rights;
- the 2012 Voluntary Guidelines on the Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (Tenure Guidelines);
- the 2018 UN Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP);
- the 2021 Committee on World Food Security (CFS) Voluntary Guidelines on Food Systems and Nutrition.

A key challenge is **understanding and applying in conjunction all these instruments** in the specific context of small-scale fisheries, with a view to ensuring the recognition, protection and promotion of human rights of small-scale fishers, fishworkers and their communities (Morgera and Nakamura, 2022).



## 2. The content of small-scale fishers' human rights

International instruments recognize a range of human rights that are universal, indivisible, interrelated and interdependent. It is therefore essential to **understand how these human rights interact with one another, with a view to adopting coherent implementation strategies**. These strategies should be built on the duties of state authorities to ensure respect for human rights (avoiding interference with rights already enjoyed by small-scale fishers), as well as to adopt a range of active measures to protect and facilitate the full realization of their human rights; this includes regulating and monitoring companies and other private actors to prevent them from infringing the human rights of small-scale fishers.

Below are selected examples of how human rights are interlinked to one another and how a coherent implementation strategy to enhance the protection of the human rights of small-scale fishers, fishworkers and their communities contributes to the realization of multiple SDGs.

### The right to tenure

- Security of tenure in the context of small-scale fisheries means protected access to fishing grounds, and adjacent land, for carrying out fishing activities (harvesting) and fishing-related activities (e.g. boatmaking, preparation of fishing gears, processing, trading and marketing) (FAO, 2013). Security of tenure is usually associated with the right to property and the right to participate in cultural life. According to the SSF Guidelines, the Tenure Guidelines, and the UNDROP, legitimate tenure rights include customary tenure rights to resources, as well as the restoration of access to traditional fishing grounds in the event of natural disasters and armed conflicts. Security of tenure also entails protection from arbitrary displacement. **Cultural rights** in the context of small-scale fisheries include the respect for local languages (e.g. dialects of Indigenous fishing communities), regard for the role of cultural heritage (e.g. traditions and knowledge passed over generations) in livelihoods practices in fisheries, and assessments of actual and potential negative impacts of decisions on both inland waters and ocean culture. **Women's rights** are also relevant here: supporting women's ownership and participation in the acquisition, planning, management, administration, enjoyment and disposition of fishing grounds supports their ability to share in the benefit arising from sustainable fisheries. In turn, recognizing these interlinked human rights also leads to protecting the **right of access to justice** and an effective remedy (including access to legal aid and appeals processes) for possible violations of any of these rights. By taking a holistic approach to all these rights, relevant action can contribute to the realization of the following SDGs: access to fishery resources (**SDG 14.b**); protection of livelihoods (**SDG 1.4**); gender non-discrimination (**SDG 5.a**); protection of cultural heritage (**SDG 11.4**); and equal access to justice (**SDG 16.3**).

### The right to adequate food

- **Security of adequate food** is fulfilled when people, alone or in a community, have access to adequate food or means for its procurement (FAO, 2017b; FAO, 2021). Availability of fish and ability to access fishing grounds have a direct impact on the right to adequate food, but also satisfy the nutritional needs (protein and micronutrients) of vulnerable populations and children near and far from these resources, thereby contributing to the protection of the **human right to health and children's right to development and health**. Access to fishing grounds is also essential for livelihoods, so **labour rights** are also linked to the right to food in the small-scale fisheries sector. These include to ensure small-scale fishers have access to social security, fair and safe conditions of work, while being recognized as professional fishworkers and able to further develop their technical capacities through professional training. Abusive working hours, inappropriate occupational safety and health, child labour and forced labour are linked to the informality, seasonality, remoteness, hazardous nature and exploitation of small-scale fishers and fishworkers, including migrant workers. And all these rights depend on the **right of access to information** – the provision of information in an objective, understandable, affordable and timely manner to enable small-scale fishers to understand potential impacts on their human rights and participate in decisions on fisheries planning, sustainable use, conservation, management, production, processing, marketing and distribution of fish and their products. By taking a holistic approach to all these rights, relevant action can contribute to the realization of the following SDGs: ensuring access by all people, in particular the poor and people in vulnerable situations, including infants, to safe, nutritious and sufficient food all year round (**SDG 2.1**); doubling the productivity and incomes of small-scale fishers,

including through secure and equal access to land, other productive resources and inputs, knowledge, financial services, markets and opportunities for value addition and non-farm employment (SDG 2.3); providing equal access to quality technical and vocational training (SDG 4.3), providing adequate support to women fishworkers (SDG 5.4); ensuring small-scale fishers' access to resources and markets (SDG 14.b.1); and contributing to the protection of labour rights and promote safe working environments (SDG 8.8).

## The right to a clean, healthy and sustainable environment

- The **right to a clean, healthy and sustainable environment** is essential for small-scale fishers and their communities since they depend directly on a healthy environment to subsist (OOH, 2022a). However, this right is affected by factors beyond their control, such as climate change, environmental degradation, ocean acidification and the destruction of critical habitats (mangroves, seagrasses, coral reefs and salt marshes), which affects both aquatic resources, communities and their means of subsistence. Small-scale fishers are often excluded from decision-making on environmental protection, such as climate change adaptation and mitigation measures or conservation measures, such as marine protected areas and land-based ones, which are often taken without proper consultation of affected communities. Negative environmental impacts from large-scale fisheries should also be assessed, including prior to adopting legislation, policies, plans and projects, to prevent negative impacts on small-scale fishers' human rights (Nakamura, Diz and Morgera, 2022). Protecting the right to a healthy environment for small-scale fishers and respecting their role in the stewardship of natural resources is linked to the protection of their security of tenure and right to food. The protection of their right to a healthy environment is dependent on the **right to participate in decision-making processes**, which can be realized through meaningful participation of coastal and rural small-scale fishers, fishworkers and their communities in inclusive, transparent and accountable decision-making processes that may

have an impact on their lives, including on **climate change responses**. This, in turn, also requires the protection of **cultural rights** so that Indigenous and local knowledge can be recognized and integrated into decisions and to ensure that climate funds, facilities and technologies are culturally appropriate. In this context, special attention should be given to the needs of vulnerable and marginalized groups (once again, **women's rights and children's rights** are relevant), whose voices are often not represented. It is important to: promote the self-identification of human rights-holders' representatives and ensure their fair representation; provide culturally-sensitive opportunities for integration of representatives from small-scale fisheries organizations and small-scale fishing communities into debates, knowledge-sharing and decision-making processes at an early stage and with adequate opportunities to express their views; take into account these views and explain decisions to the public; and strengthen small-scale fisher networks through adequate resourcing. Effective participation needs to be supported by the protection of **children's rights to environmental education** and by the recognition and provision of a safe environment for **environmental human rights defenders** among small-scale fishers to operate free from threats, harassment, intimidation, and violence. When **Indigenous Peoples** are involved, their human rights need to be protected through environmental and socio-cultural impact assessments, Free Prior and Informed Consent (FPIC) and fair and equitable sharing of the benefits arising from the conservation and sustainable use of fisheries resources. By taking a holistic approach to all these rights, relevant action can contribute to the realization of the following SDGs: ensuring full participation and leadership of small-scale fishers in decision-making (SDG 5.5); promoting climate action through climate mitigation and adaptation measures and policies for small-scale fishers (SDG 13); devising access to information to ensure a real opportunity for small-scale fishers to decide and participate in decision-making processes affecting them (SDG 16.10).



## Practical examples of the protection of the human rights of small-scale fishers, fishworkers and their communities and the consequent benefits for the protection of everyone's human rights

<p><b>Case study 1:</b></p>	<p>In 2022, two decisions of the Western Cape High Court and the High Court of Makhandla in South Africa concluded that inadequate consultations with local small-scale fishers had been conducted before starting seismic testing for offshore oil and gas exploration (Sowman <i>et al.</i>, 2022). The Courts noted that small-scale fishers' participation depends on the recognition and consideration of their intangible spiritual and cultural beliefs pertaining to the sacredness of the ocean as the home of their ancestors. The decisions demonstrated the link between cultural rights, the right to food and livelihoods, and the procedural rights of small-scale fishers, as well as their relevance for everyone's right to a healthy environment (safe climate versus future offshore fossil fuel extraction). The One Ocean Hub researchers and partners are exploring various forms of art-based research (theatre and photographic storytelling) to support respectful conversations between small-scale fisheries and their communities (including women and youth) and decision-makers on the inclusion of culture (particularly intangible cultural heritage) in marine spatial planning (Erwin, 2021; Strand, Rivers and Snow, 2022). <b>Protecting small-scale fishers' right to be consulted in decision-making relating to large-scale undertakings affecting the ocean can enhance the protection of fishers' rights to food, livelihoods and culture, as well as everyone's right to a healthy environment (thereby recognizing the role of small-scale fishers as environmental human rights defenders).</b></p>
<p><b>Case study 2:</b></p>	<p>To support small-scale fishers and enhance the value of their production, FAO and the Centre for Marketing Information and Advisory Services for Fishery Products (INFOPECSA) assisted the governments of Angola, Honduras and Peru in the integration of fish caught in small-scale fisheries into national school feeding programmes. In many countries, school meals are seen as the unique or sole opportunity to improve food and nutrition in children suffering from malnutrition. This project offers small-scale fishers a market for their products, contributing to: the protection of their labour rights; and their right to an adequate standard of living, including their right to food. <b>Empowering small-scale fishers and giving them fair value for their production can enhance their livelihoods and benefit the rights of children to adequate food, development, health and education.</b></p>
<p><b>Case study 3:</b></p>	<p>In 2008 and 2009, two major oil spills occurred in the Niger Delta, contaminating the water around the fishing community of Bodo in Nigeria and disrupting the lives of tens of thousands of people. Estimates suggest that the spill was as large as the Exxon Mobile spill in Alaska in 1989. In March 2012, the members of the community filed a lawsuit against Shell in the High Court of London. The group was composed of 15 000 plaintiffs and requested compensation for losses suffered to their health, livelihoods and land and ask called for a clean-up of the oil pollution. Over the years, there were various settlement offers that the plaintiffs refused on the basis that they were too low in light of the alleged damage suffered. In 2015, Shell accepted its responsibility and agreed to a GBP 55 million out-of-court settlement to pay for cleaning up the spill. <b>Protecting the rights of small-scale fishers and their communities of access to justice and effective remedy can contribute to the protection of local communities' security of tenure to land and fishing resources, and their human rights to a clean and healthy environment and to an adequate standard of living.</b></p>

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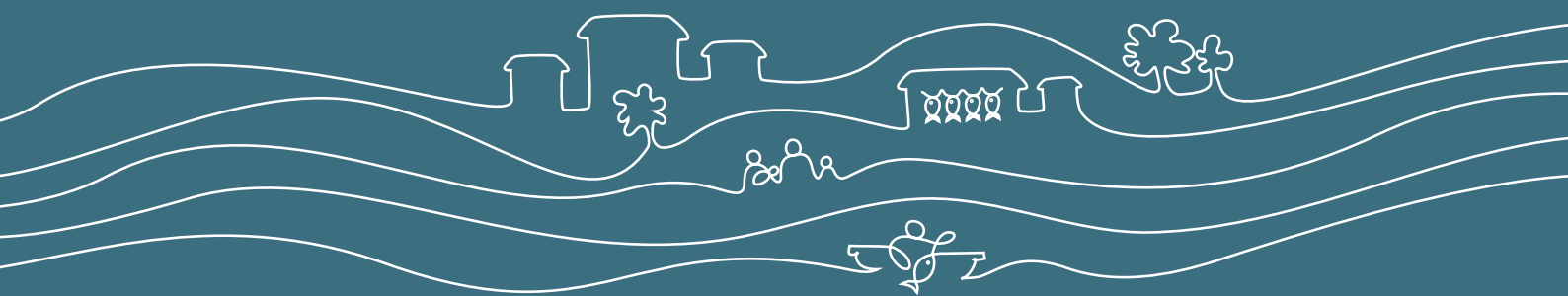


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## For more information:

FAO Development Law Service: [www.fao.org/legal-services/en](http://www.fao.org/legal-services/en)

FAO SSF Guidelines: [www.fao.org/voluntary-guidelines-small-scale-fisheries/en](http://www.fao.org/voluntary-guidelines-small-scale-fisheries/en)

One Ocean Hub: <https://oneoceanhub.org>

Office of the High Commissioner for Human Rights: [www.ohchr.org/en/ohchr\\_homepage](http://www.ohchr.org/en/ohchr_homepage)

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