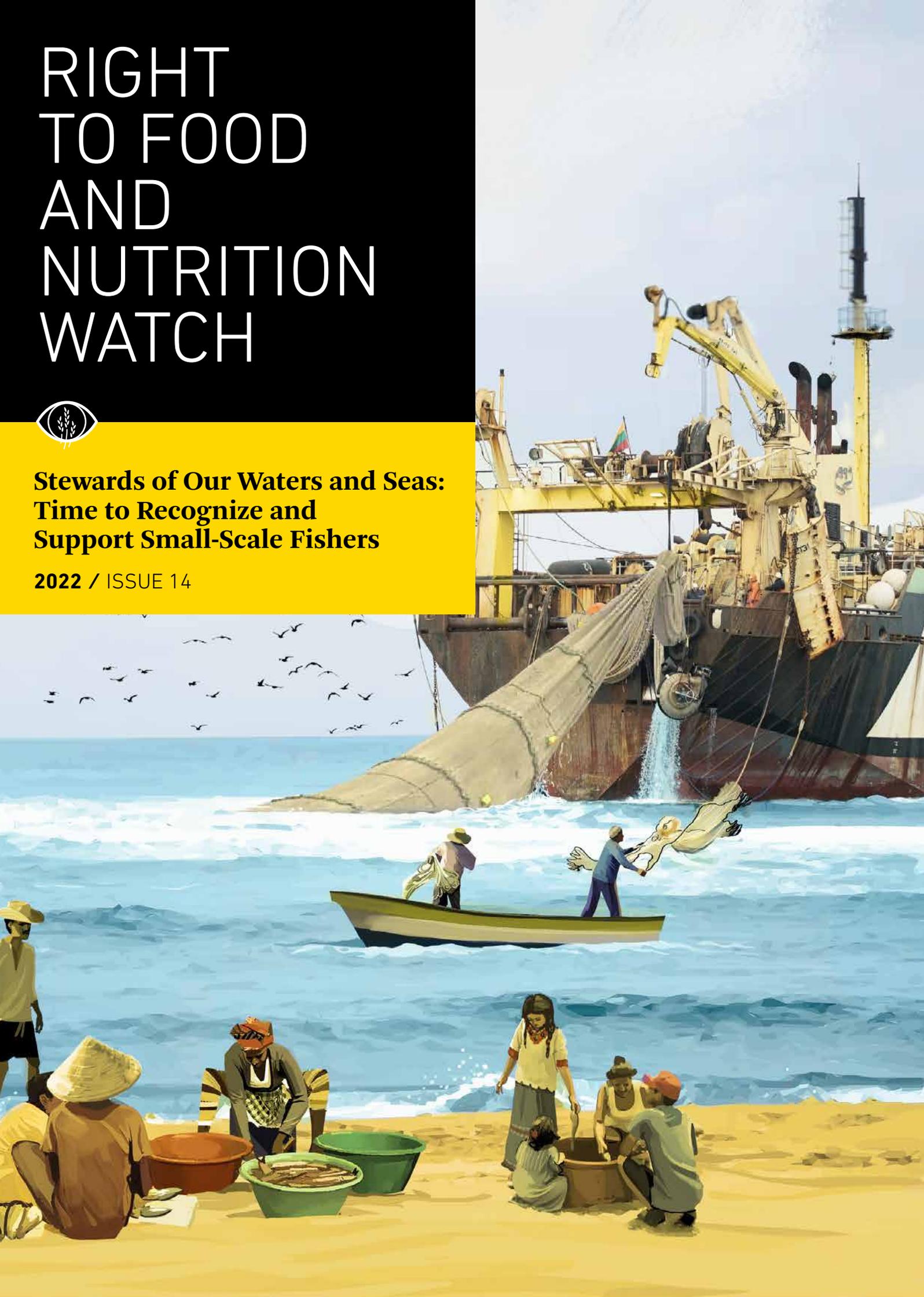


RIGHT TO FOOD AND NUTRITION WATCH



**Stewards of Our Waters and Seas:
Time to Recognize and
Support Small-Scale Fishers**

2022 / ISSUE 14



GLOBAL NETWORK FOR THE RIGHT TO FOOD AND NUTRITION



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01

WE ARE THE GUARDIANS OF THE WATERS AND THE SEAS! VOICES FROM THE GROUND: CHALLENGES AND FUTURE OF TRADITIONAL FISHERFOLK

Yifang Tang

Yifang Tang is a human rights practitioner and Case Work Coordinator at FIAN International.



“Traditional fisherfolk are agents of change, and they have clear visions for the future.”

INTRODUCTION

In recognition of the crucial role played by the world’s 482 million traditional fisher people in ensuring food sovereignty and guaranteeing the human right to adequate food and nutrition (RtFN), not only for themselves but for millions of others, the UN Food and Agriculture Organisation (FAO) declared 2022 the [International Year of Artisanal Fisheries and Aquaculture \(IYAF 2022\)](#). IYAF envisions a world in which “small-scale artisanal fishers [...] are fully recognized and empowered to continue their contributions to human well-being, healthy food systems and poverty eradication [...]” Yet, the 2019/2020 [Fishers’ Blue Economy Tribunal](#) brought to the fore the ever-increasing territory grabbing, and the competition among various actors for ocean spaces, driving away traditional fisherfolk from their fishing grounds and territories, and jeopardizing their ability to feed themselves and their families. This article is based on the voices and experiences shared by the traditional fisher people representatives who are members of the [World Forum of Fisher Peoples](#) in dialogues held on their relationships with oceanic ecologies, the multi-faceted challenges they continue to face, and the future they envision for themselves and for future generations in attaining food sovereignty.

FISHING AS TRADITIONAL FISHERFOLKS’ WAY OF LIFE

Fishing is more than just an economic activity for ensuring livelihoods. Fishing is an intrinsic part of the culture of fisherfolk, and the very soul of who they are. “I have never questioned what it means to be traditional fisherfolk. We have always

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PHOTO | [Quang Nguyen Vinh](#)

fished and hunted, and that has been the essence of our lives”, says Elena Konoplianko ([Aborigin Forum, Russia](#)) who belongs to the Indigenous Peoples of Oroch (Орочи), Russia. Fishing is not only a profession, or a sector but it is what makes them who they are; it is their collective identity. “Our tribe is called *Maruka* and it means the people living by the sea”. This is echoed by David (Dauda) Ndiaye ([National Collective of Artisanal Fishermen in Senegal /CNPS](#)). “We are Lébou. We live in the western part of Senegal. Our families have been practicing various fishing techniques for generations. We have historical ties with the sea and marine resources. They are at the heart of our lives and our only means of subsistence, which also guarantees our social cohesion and our food sovereignty.” This view is equally shared by Jason Jarvis, a small-vessel fisherman from Rhode Island (USA) ([Northwest Atlantic Marine Alliance/NAMA](#)) who says his relationship with water is ingrained in him since his childhood: “I feel connected to water in a way that is hard to explain. Being in and on the water is where I feel at home, at peace”. Fishing is passed down from generation to generation: “It is part of our genes, it is in our DNA. I see it in my son. The most amazing thing is for him to go to the sea with his father”, Nadine Nemhard from Belize ([Caribbean Network of Fisherfolk Organization/CNFO](#)) adds. Jason equally highlights how being a fisher is also about self-determination, which is also shared by Josana Costa ([Movimento de Pescadores e Pescadoras Artesanais do Brasil /MPP](#)) from Brazil: “It is about freedom and sovereignty, to be autonomous”. Siti Aisyah Amini ([Indonesia Traditional Fisherfolks Union/KNTI](#)) emphasizes the contribution of traditional fisherfolk to food security: “Indonesia is the largest island country. Of the fishers, 96% are small-scale. We are the national protein hero”. To be able to provide fresh and best quality fish gives fishers pride, as echoed by Jason and Nadine. Increasingly, however, fish is turned into ‘seafood’, a commodity, and an economic good that is regulated by the market, Jason laments.

CHALLENGES OF TRADITIONAL FISHERFOLK TODAY

Access to and control over water resources and coastal areas is a sine-qua-non for the realization of traditional fisherfolks’ RtFN and other related human rights. All representatives cited here denounce the loss of access to their waters and territories. The causes are manifold: Corporate interests and profit-driven agendas and policies are increasingly embodied in the so-called blue economy. In this context, the promotion of extractive industries (such as gas, oil, and mining), aquaculture, development of infrastructure, and tourism continues to push traditional fisher peoples to the margins.

Today, fishers face denial of their access to and governance over their waters and coastal lands, a decline in fish stocks, marine pollution caused by industrial and household wastes, and degradation of marine biodiversity, all of which jeopardize the realization of their RtFN.

Senegal’s recent oil and gas discoveries are attracting the arrival of extractive industries. An Australian oil exploration and production company has launched its first oil project: “The company’s drilling endangers the artisanal fishing zone designated for artisanal fishers, and they cannot access [fishing grounds](#)”, says Dauda. Josana emphasizes the nexus of land and water and the importance of tenure rights not just to water but also to adjacent land: “Our land and forests are grabbed, fertilizers and mercury contaminate our land. And capitalism has advanced into our waters too. This widespread evil is now impacting our fish production. [Agribusiness is building ports to export corn and soy and mining companies are taking away our beaches](#)”. Even in the landlocked country of Mali, Africa’s mightiest waterway,

the Niger River, is drying up due to the [upstream diversion of water](#) provided to foreign investors who are backed by agricultural development schemes. This loss of waterfronts is also echoed by Jason: “Much of our coastal property has been bought off by wealthy people. This real-estate grab is pushing us out. So we are losing our access to marine resources and places to park our boats”.

Top-down conservation measures, which fail to view people as part of nature, disrespect the customary rights of traditional fisherfolk’s access to waters. One example can be found in Marine Protected Areas (MPAs), i.e. conservation areas set aside to rejuvenate marine biodiversity and fish stock that have limited communities’ fishing rights in many parts of the world. Their establishment is supported by global targets, such as Sustainable Development Goal (SDG) Target 14, and the so-called 30 x 30 Initiative, which calls for 30% of all land and marine ecosystem to be put under protection schemes. More often than not, MPAs are imposed without consultation with fisherfolk who are then criminalized for fishing in their waters. The recent [headline on Debt-for-Nature-Swaps \(DFNs\) in Belize](#) is an example of how so-called “nature-based solutions” such as MPAs meet the financialization of the blue economy. DFNs are a debt instrument that allow portions of a developing country’s foreign debt to be ‘written off’, in exchange for commitments to invest in biodiversity conservation and environmental policy measures. In short, a USA-based environmental NGO, the Nature Conservancy, in partnership with Credit Suisse, financed the purchase of USD \$533 million worth of debt. In return, Belize agreed to spend USD \$4 million a year on marine conservation until 2041, to legally enforce the “Marine Spatial Plan”, and designate up to 30% of its ocean as Biodiversity Protection Zones, and to develop a “high-value sustainable aquaculture and mariculture industry”. Belize will face financial penalties if it fails to abide by the agreement. Nadine criticizes the lack of consultation with and decision-making of the country’s 3000 fishers who depend on water for their survival. “I want to emphasize the deeply neo-colonial nature of this market-based approach. Because Belize is pushed into giving away its right to decide by itself on how to use its natural and financial resources. Not only is Belize’s debt the result of financial dependency from Northern countries, but now it is used to force us to address an ecological crisis, which has largely been caused by rich countries. The DFN is another form of domination from foreign financial interests to the detriment of our people.”

Encroachment of waters by foreign vessels jeopardizes the RtFN of traditional fishers, as narrated by Azrilnizam Omar ([Malaysian Coastal Fishermen’s Education and Welfare Association /Jaring](#)): “Foreign trawlers, primarily from Vietnam, are encroaching the fishing areas designated for local Malaysian trawlers, who, in return, enter our fishing zones. This affects our fish catch, source of income, and livelihood. The monthly financial aid provided by the government only benefitted registered licensed fishers but not us.” Illegal, unreported, and unregulated fishing (IUU) has become [one of the main maritime threats](#) faced by Senegal. Unauthorized industrial fishing ships, in particular, have been [plundering the country’s marine resources, taking advantage of the country’s weak surveillance system](#). Dauda explains: “Aquatic resources, which were once abundant, diverse, and rich in nutrients are overexploited. Many of us do not have a license to fish because the government has frozen the fishing permit since 2018.” Similarly, in Sri Lanka, Thadsajini (Thadsa) Thavachselvam ([National Fisheries Solidarity Movement/NAF-SO](#)) shares how fishers are confronted with illegal fishing trawlers poaching in Sri Lankan waters from its neighboring country, India. The [conflict between Sri Lanka and the Southern state of Tamil Nadu in India over fisheries](#) dates back to the 1970s.

A maritime boundary agreed upon by both countries in the 1970s continues to be disrespected by large Indian industrial fishers. In the USA, large draggers and trawlers come close so as to run down the boats that belong to small-scale fishers (SSF): “The big boats call us the mosquito fleet. We are just an annoyance to them”, says Jason.

Profit-driven agendas also threaten the lives of the traditional fisherfolk in the Far East Region of Russia. The government turns a deaf ear to the plight of the Indigenous fisher peoples but heeds to the industrial interests and their lobbying. The Orochi fisherfolk are witnessing the overexploitation of various salmon species by industrial fishers. Despite the legal recognition of the right to traditional fishing of Indigenous Peoples, there is a set quota for the amount of salmon that can be fished. “We are only permitted to fish 100 kg of salmon per year. This amount is too little for us to sustain our livelihood. We fish because our land is not suitable for farming.” Such a quota system, known as individual fishing quotas (IFQs) or individual transferable quotas (ITQs), is often applied by governments to regulate fishing. For fisherfolk, however, this is the privatization of their fishing rights. Also in the USA, Jason is fighting against the quota system: “In 2010, fish was commodified and turned into stocks and bonds. A simple way of putting it: It has become a commodity market and anyone with money can buy the fishing quota.”

The rapid decline in fish stocks is harming the ability of small-scale fishers to feed themselves and their families. Water that is rich in biodiversity and essential for the mere survival of fishers is undergoing global warming, thereby further impacting oceanic resources. In Sendou, Senegal, Dauda shares how a coal-fired power plant has been established in an area where small-scale fishers fish, [affecting the health of the local population, particularly women who are workers of a nearby fish-processing site](#). Climate change affects the weather, and fishers are putting their lives at risk to go fishing further into the ocean, Jason adds. Elena reminds us of the interconnectedness of nature, fisherfolk, and the surrounding environment: “Everything is interconnected: Sea, flora, and fauna. Today we use different fishing tools, nets, and boats, but we believe in nature’s spirit and never overfish or overexploit our territories.” Josana points to the social implications linked to territory grabbing: “With the Brazilian government’s promotion of mining, we are witnessing the entry of more drugs, more trafficking, rape, and prostitution. Women are the main victims and bear the brunt. The government has liberalized guns and uses artificial intelligence to detect who is rejecting its policies and actions, and then criminalizes us.”

An additional challenge relates to accessing subsidized diesel fuel for small-scale fisheries. In Indonesia, it is due to [administrative hurdles and the distances fishers must travel to fuel stations](#). In Sri Lanka, [as the country faces the nation’s worst economic crisis since independence in 1948 and with inflation running rampant, the cost of diesel has almost doubled in a few months](#), while official figures show that the average price of food shot up by 25% in January 2022. Thadsa denounces the situation: “The crisis has left local fishing communities short of fuel to send their vessels out to the ocean to fish. This has a huge implication for our RtFN because we are not able to buy food. With an average wage of 500-600 Sri Lankan Rupees (equivalent to USD \$ 1,54), we are unable to pay for medical fees and send our children to school.”

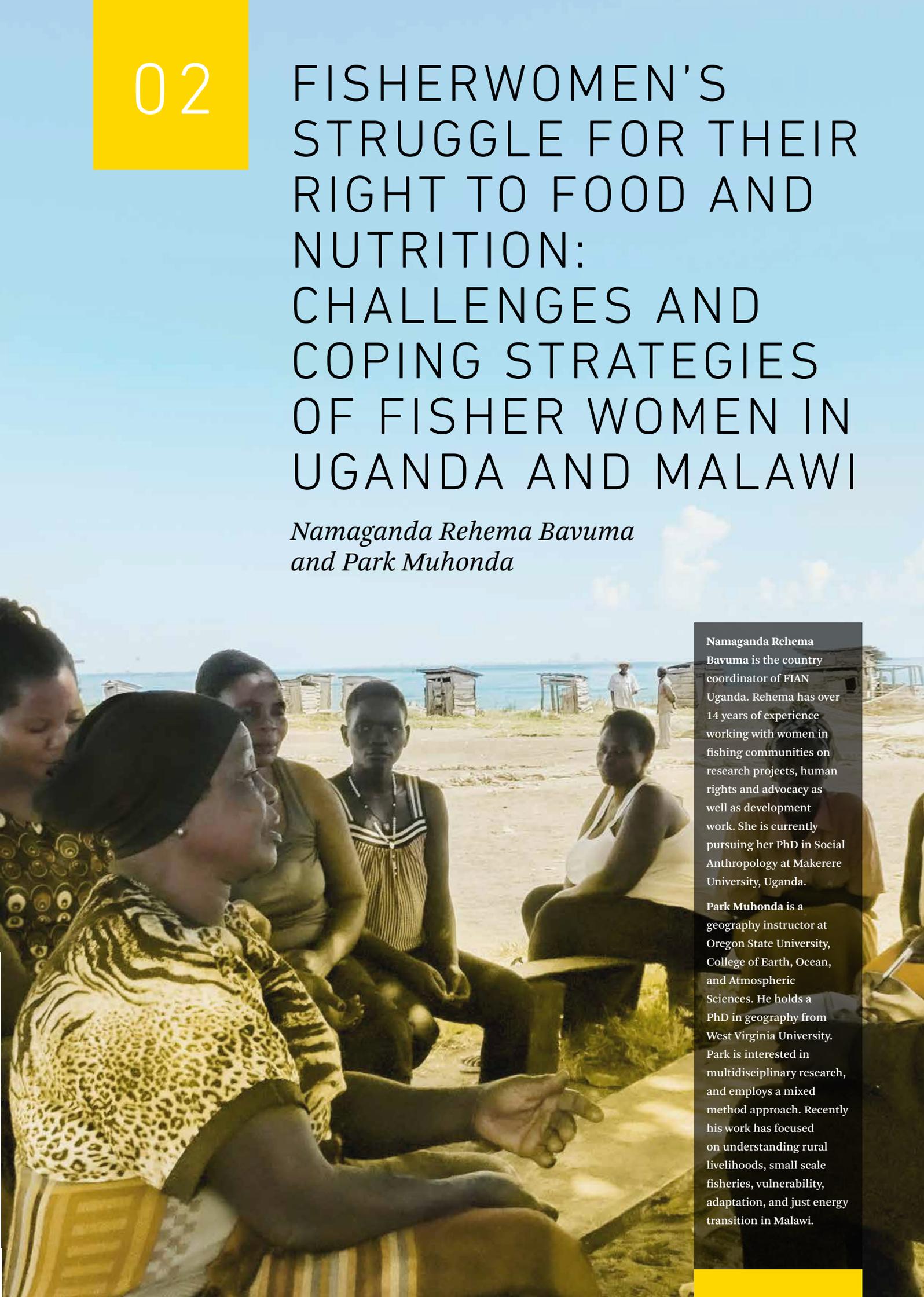
VISIONS FOR THE FUTURE

Despite seemingly insurmountable challenges the world over, traditional fisherfolk are not silent. They are deploying various strategies and combined actions to challenge policies and currents against them. Elena and Jason are raising their voices against the quota system by engaging directly with policymakers in Russia and the USA, while Thadsa conducts aware-raising programs with traditional fisherfolk to engage in direct actions, and to nationalize the protest of Sri Lankan fisherfolk. Nadine also highlights the importance of capacity-building for fishers to demand their rights in policy-making spaces in the Caribbean. Siti demands the direct involvement of fisherfolk in policy and law-making processes in Indonesia, and calls for fishers to make recommendations of their own, based on their data. In Brazil, fisherfolk themselves are already engaged in data collection to counter the “lies” of the government, which favors industrial fishing based on the claim that it catches more. Azrilnizam continues to monitor the Malaysian government’s phase-by-phase plan to stop the operation of large trawlers in national waters. Aminata calls for the transformation of local food systems in Mali with a much stronger focus on locally produced fish, for example, through small-scale fish farming that can be easily done by women and elderly.

Traditional fisherfolk are agents of change, and they have clear visions for the future. The federal government of Rhode Island is now increasingly sourcing local fish caught by small-scale fishers through a collective, thanks to Jason and his fellow fishers’ advocacy. Nadine highlights the endorsement of the UN [small-scale fisheries guidelines](#) as an achievement of fisherfolk, and reminds us of the need to monitor its implementation by national governments. Lastly, fisherfolk must organize to defend the recognition of their peoples’ rights and their traditional customary rights over their territories for all future generations. Dauda concludes: “This year, a coalition of small-scale fishers was built to represent us. This coalition will contest at the upcoming legislative elections to defend the rights of small-scale fishers, which is the first attempt not only in Senegal, but in the whole of Africa. Think of us fishers as actors!”

FISHERWOMEN'S STRUGGLE FOR THEIR RIGHT TO FOOD AND NUTRITION: CHALLENGES AND COPING STRATEGIES OF FISHER WOMEN IN UGANDA AND MALAWI

*Namaganda Rehema Bavuma
and Park Muhonda*



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“Unless inequalities in the small-scale fisheries are tackled, the right to food and nutrition will not be a reality for women fishers and their households.”

THE SITUATION OF WOMEN SMALL-SCALE FISHERS IN AFRICA

In Africa, [10 to 19 million people rely directly on fisheries for their livelihood and another 90 million benefit from fisheries](#) more broadly. Although hardly recognized, across the continent, women play a critical role in the fisheries value chain. While a few women now own fishing boats and are directly involved in direct fishing, 96% of women’s work in small scale fisheries still takes place in [post-harvest activities, e.g. the processing, sun drying, smoking, and trading of fish](#). In addition to their role in small-scale fisheries, women are culturally still expected to be responsible for a broad range of roles and duties that fulfill social and economic obligations within the household, as well as in their respective communities. A few examples of these expectations include, but are not limited to, care and reproductive work, such as the care of children, the elderly and the sick, household chores, and procuring food to cook for their households.

Despite the extensive engagement of women in the fishing value chain as well as in other socio-cultural gender roles, they are often sidelined. [Women fishers are not given proper attention, and are left out of decision-making processes](#). Women and their needs are excluded from policy debates on fisheries, often leading to their marginalization. It is important to note, however, that women fishers have unique knowledge, experiences and aspirations for sustaining their livelihoods. Recognizing and addressing these gender inequalities, as well as applying a human-rights based approach to the core challenges and structural injustices faced by women small scale fishers is indispensable for the realization of the human right to adequate food and nutrition (RtFN) of fisher communities, particularly women.

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PHOTO | FIAN Uganda

CHALLENGES FACED BY WOMEN IN SMALL-SCALE FISHERIES: UGANDA

Criminalization of Fishers and its Impact on Women

In Uganda, a presidential directive, which was passed in 2017 to [let the army intervene and take control of fisheries along the shorelines of Uganda's major fishing lake](#), has worsened the situation of fishers. This directive has had and is still having a strong impact on fishing communities, especially women. It has led to cases of criminalization of fishers, with social implications. For example, at one landing site in Mukono district, the army confiscated a boat and fishing gear of a fisher woman under the pretext that she was not complying with the fisheries regulations. She then had to pay a 'ransom' of UGX 1.5 million (approximately USD \$ 400) for its release, but in the meantime, the boat was plundered of vital equipment. She was unable to resume her fishing activities – her primary source of livelihood – thus jeopardizing her and her family's RtFN.

There are also many instances of arrests of and charges against fishermen for using steel nets, which are classified as “illegal fishing methods” by the army. However, the cotton nets and fishing gear that are required by law are costly (approximately USD \$ 3,500), and are simply unaffordable for many fishers. On the other hand, steel nets are cheaper and readily available on the market despite being illegal, because the government continues to allow their import. Such arrests of fishermen further worsen the burden of the women who, in addition to their care activities, have to struggle to get arrested family members released.

More so, with increasing arrests and militarization of the lake, many fishermen attempt to run away from army arrests, and migrate from one landing site to a different one. There they establish new families, but abandon the women who they leave in former landing sites with hardly any options to migrate. Additionally, women have sadly revealed that in some cases of vulnerability, at times they have to fight for the little available fish by offering sex to boat owners and boat crew, lest they be forced to pay a much higher price for the fish that they need to sustain their livelihoods and feed their children. What is even worse is that women often have to put up with a lot of [gender-based violence, which particularly escalated during the COVID-19 outbreak](#) in various parts of the country.

Access to Land – Equally Important to Small-Scale Fishers

Beyond the challenges related to fisheries, women in fishing communities generally have limited access to land. The Ugandan Bureau for Statistics (UBOS) indicates that [only 38.7% of landowners are women](#). Moreover, 66.7% of land occupied by agricultural households falls [under customary tenure](#), which, albeit legitimate, is still [challenged when it comes to legal protection by the state](#). Although this is common across the country, the situation is worse among fishing communities because women have little access to land, which is much needed for their post-harvest fishing activities, such as the sun-drying of silver fish. Women in fishing communities also need land to grow food with which to feed their children, especially given their reduced access to fish. In addition to these practical problems on the ground, women are further marginalized due to the existing legal pluralism that lies behind the land tenure system, which applies both formal and informal laws, despite often being in conflict with each other.

Witchcraft Accusations and Witch-hunts

Women in fishing communities, like elsewhere in the country, are often engaged in informal relationships that are not recognized as legal marriages by the laws of

Uganda. The constant movement of men between landing sites as they search for fish and flee from the army increases the likelihood of informal family relationships. This makes women even more vulnerable and disadvantaged when it comes to marital property rights. The *Succession Act* that provides for inheritance is unjust from the outset, as it [defines different shares to be inherited based on sex, due to the still dominant patrilineal system in Uganda](#).

Another significant challenge that is almost exclusively faced by women small-scale fishers relates to witchcraft accusations against those women who are prospering. This assumption is made so as to be able to explain their success in a context where many live in misery and poverty. Such accusations have largely resulted in the eviction of these women from their own communities after being subjected on many occasions to physical violence and deprivation of their means of production, such as fishing boats. When the community perceives that someone practices witchcraft, they are believed to have the supernatural ability to perform acts of evil, including inflicting pain, sickness, misfortune and death. Poverty and lack of alternative livelihood opportunities in fishing communities have aggravated the practices of witch-hunting that commonly target successful women, especially those with thriving small businesses.

One case in point (during these COVID-19 times) is that of Teopista Komakech. Teopista is a fisherwoman who has lived at Buzindeere landing site for the last 20 years. She was rejected and evicted from her village, and the community retained all of her belongings. Community members used her boat and engine as collateral to raise money to hire the services of a witch doctor to cleanse the community of her suspected witchcraft practices. Teopista narrates that she initially borrowed money to procure a fishing boat, which enabled her to educate her 6 children (4 girls and 2 boys) thanks to her hard work. Meanwhile, many children in the community were dropping out of school. One of Teopista's accusers claims Teopista's witchcraft impregnated her daughter after completing primary school. Others claim that their children fell sick, whilst Teopista's children remained healthy because of her witchcraft. Since witchcraft accusations are often targeted at women, no one in the community accused Teopista's husband. On the contrary, community members always upheld his innocence. The example of Teopista is not an isolated case: Many fisherwomen in Uganda are subjected to the same treatment.

CHALLENGES FACED BY WOMEN IN SMALL-SCALE FISHERIES: MALAWI

Like in Uganda, fishing in Malawi is culturally considered to be a man's activity, and only men are expected to be directly involved in fishing. Even though some women may want to actively participate in fishing, they are hindered by cultural prescriptions and gender roles. As one woman from a fishing community in Ngara (northern part of Lake Malawi) explained: "a woman can have fishing equipment, but it is hard for her to take control, there are a lot of myths and beliefs against a woman actively participating in fishing. Even if you have a fishing gear, you always allow men to take control." Women gear owners also reported facing challenges when it comes to managing fishers who are always men.

Women Process Fish but Men Dominate Urban Markets

Based on the above, women in small-scale fisheries mostly engage in fish processing, and sell their produce on a market that is largely unregulated. Indeed, there is no formal market and standard price for fish. This unduly and disproportionately disadvantages processors and fishmongers who are predominantly women. Without information about the rapidly changing prices at the urban markets, fishers

(who are predominantly men) tend to charge higher prices for fish. At Nkhata Bay/Tukombo in Nkhata Bay and Ngara in Karonga, women fishers reported that people who come to buy *usipa* (a local fish) at the lake come from as far as Zambia. When the competition is high, *usipa* prices increase and squeeze margins for actors (women) further down the value chain. One woman fishmonger at Mzuzu Market lamented, “we make nothing out of our *usipa* because the prices are very high at the lake as we compete with buyers from Zambia who have higher purchasing power than us. Their currency, *Zambian Kwacha*, is stronger than our *Malawian Kwacha*”.

Another challenge relates to the problem of lack of or inadequate market infrastructure. Many women are unable to access stalls at urban markets. Though studies have shown that the majority of fish traders are women, the majority of fish retailers with a stall in urban markets across the country are men. Most women are forced to sell in inconvenient places such as up and down streets where they are not able to sell much. In addition to issues related to access to market stalls, another problem is access to storage space. Most urban fishmongers have no access to storage and are thus forced to sell their *usipa* upon arrival, even if the prices are low. Fishmongers at Mzuzu Market complained that if they do not sell all their *usipa* in one day, then they are forced to keep it out on the street, and it often gets stolen.

Additionally, the lack of access to capital is another bottleneck for women small-scale fishers. Loans are only accessible by those who are already better off, i.e. those who already have the fishing gear, which could be used as security. Many women who would like to actively participate in fishing are unable to because they cannot access loans, as they do not have collateral security. Fisher women lamented that some organizations started giving group loans, but it did not work out for women. The loans were dominated by powerful members. When there are challenges to repay back the loans, or there are no funds to service and repair the boats, those who are well off use their money and end up controlling the boat.

WOMEN SMALL-SCALE FISHERS CLAIMING THEIR RIGHTS AND RAISING THEIR VOICES

The examples from Uganda and Malawi show that, despite the great contribution of women to fisheries, a wide range of factors impacts their livelihoods. These include but are not limited to: the burden of care and reproductive work; prescribed gender roles manifested through cultural and societal difficulties and stereotypes; lack of access to land and to collateral; and structural barriers that hinder their full participation and impede their further contribution to small-scale fisheries. Despite this plethora of challenges, women in small-scale fisheries across Africa are not just passive victims. They fight on and continue to exercise their agency to influence their communities positively.

In Uganda, fisher women have taken the lead in mobilizing their communities to introduce human rights discussions amidst threats and intimidations from all corners. In Mukono district, fisher women have mobilized over 40 fishing communities for [human rights trainings](#) in 2021, conducted by [FIAN Uganda](#) in partnership with [Katosi Women Development Trust \(KWDT\)](#) and the [Network of Public Interest Lawyers \(NETPIL\)](#). Several trainings have continued to empower women and other members of the community with knowledge regarding their human rights and the role of the state as duty bearers in improving the living conditions in these communities. In the process, these women have mobilized and are demanding the realization of their human rights through, for example, writing

letters to their Members of Parliament (MPs) and leaders at various levels. Through their umbrella organization of KWDT, [women have acquired boats and fishing gear of acceptable sizes to carry out fishing together in groups](#), and thereby counteract the challenges of not being able to afford boats and fishing gear as individual women. Women have further braved up to meet their MPs to [express their views and positions about unfair bills](#).

In Malawi, women are not silent victims of systematic inequalities either. At Chilumba beach site in Karonga, women processors have mobilized and self-organized to form a group, which has put in place local regulatory and policy initiatives geared at increasing local participation. Particular attention has been placed on women's participation in *usipa* trade at the beach site where there is increasing but biased competition between men and women for access to *usipa* as processors and/or wholesalers. Through a new local regulatory and policy initiative, only locals are allowed to buy *usipa* directly from fishers as processors, and all other traders now have to buy *usipa* from local processors. With less competition from non-local traders, prices may be affordable for processors – most of whom are women – and may consequently lead to better margins. Women in small-scale fisheries are also mobilizing and organizing into village savings and loan associations – a form of microfinance to lessen the problem of access to capital.

Unless inequalities in the small-scale fisheries are tackled, the RtFN will not be a reality for women fishers and their households. A human rights-based approach is the very key to protect women against unfair customs and practices at the various levels. There is a great need for deliberate policies and programs that support women in small-scale fisheries to access resources and to overcome both structural and cultural barriers in order to effectively engage and contribute as agents.

An aerial photograph of a harbor filled with numerous fishing boats. The boats are viewed from above, showing their decks, masts, and various equipment. The water is dark, and the sky is a pale blue. The boats are arranged in rows, with some larger vessels and many smaller ones. The overall scene is a busy maritime hub.

03

WORLD TRADE ORGANIZATION FISHERIES SUBSIDIES AGREEMENT: WHAT IS THE CATCH?

Peter Lunenburg

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“The continuation of subsidies will profit large-scale fisheries leaving out small-scale fishers. The world will most likely witness further depletion of fish stocks and degradation of marine resources, undermining the livelihood of small-scale fishers and coastal communities.”

INTRODUCTION

After many years of negotiations, the 12th World Trade Organization (WTO) Ministerial Conference ([MC12](#)), which took place June 12-17, 2022, adopted a slimmed-down Interim Fisheries Subsidies Agreement. It was hailed as an agreement to save fish globally and to support and accelerate a shift to sustainability. However, these notions are in fact only meekly reflected in the [draft Agreement](#) that was submitted for Ministers’ consideration at the Conference, as well as in the [adopted Interim Agreement](#). Negotiations will continue at the WTO to achieve a final Agreement, which should fully attain [Sustainable Development Goal \(SDG\) 14.6](#).

Governments continue to favor large-scale fisheries, which are seen as more profitable than small-scale. Globally, [most subsidies \(81%\) are provided to large-scale fishing](#) in the form of capacity-enhancing subsidies, with fuel subsidies being the highest overall subsidy type. If the current situation continues, large-scale fishing will continue to contribute to the doomed status of global fisheries to the detriment of the world’ small-scale fishers, jeopardizing their human right to adequate food and nutrition (RtFN) as well as other related rights, such as the right to work. This could further exacerbate political and economic marginalization of small-scale fishers. It is these small-scale fishers who provide an importance source of protein to many marginalized segments of the world population.

This article seeks to unpack the contents of WTO’s Fisheries Subsidies Agreement with a specific focus on the prohibited subsidies, and draws a conclusion on how the Agreement will impact small-scale fishers.

PEER-REVIEWERS |

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PHOTO | [Tom Fisk](#)

CONTENTS OF THE DRAFT FISHERIES SUBSIDIES AGREEMENT

The draft Fisheries Subsidies Agreement that was submitted to Ministers for their consideration at MC12 contained three categories of prohibited subsidies: 1) subsidies ‘contributing’ to Illegal, Unreported and Unregulated (IUU) fishing; 2) subsidies to overfished stocks and 3) subsidies contributing to overfishing and overcapacity. These will be discussed in turn.

1) Illegal, Unreported and Unregulated Fishing

IUU fishing is a major cause of overfishing and can be witnessed all over the world. The first category concerns a subsidy prohibition for a vessel or operator if determined to have engaged in IUU fishing. This type of prohibition is limited in scope. First, it does not discipline subsidies, which ‘contribute’ to IUU fishing. Rather, it is triggered after IUU fishing has actually taken place. Second, the prohibition applies to a specific single vessel or operator. Third, most developing countries do not have the required resources to make IUU fishing determinations, such as helicopters to monitor their own waters, on-board inspection, and quarantining of vessels. Fourth, even if a domestic legal process is able to determine that a vessel was engaged in IUU fishing, the country where this takes place must also comply with various procedural requirements vis-à-vis the flag state (i.e. the country in which a vessel is registered and has authority over it on the high seas). This includes having to provide information, allow for consultations, take the flag state’s comments into consideration, and notify the WTO. These requirements also apply if the subsidizing country is known, i.e. most requirements would apply twice. Fifth, the subsidy prohibition is temporary. The subsidizing country has the right to limit the period of subsidy prohibition based on its assessment of the severity of the crime, after which it can continue subsidizing. At any rate, the subsidy prohibition lasts as long as the associated sanction. In the case of short-lived sanctions, such as penalties (which may be paid shortly afterwards), the subsidy prohibition is also short-lived.

Under this category, there is also an additional prohibition for ‘fishing related activities in support of IUU fishing’, which was inserted on the behest of the United States of America (USA) after submission of its ‘forced labor’ proposal. Fishing-related activities include processing of fish on shore. There is always the risk that a processing plant sources fish from a vessel or operator engaged in IUU fishing, or that it does not follow the IUU regulations of a certain WTO Member, for instance, with respect to documentation requirements. In contrast, an affirmative determination that a single vessel has been engaged in IUU fishing is more difficult to obtain, and the subsidy prohibition is therefore difficult to enforce. This could actually make large-scale on-board fish processing more competitive than on-shore processing, and labor conditions on vessels are undoubtedly less amenable than those in a factory. Thus, an unintended consequence of this provision could be even worse labor conditions for fish processors.

2) Overfished Stock

The second category concerns a prohibition for subsidies for fishing an overfished fish stock. It is not mandatory to determine a fish stock status, and hence it is difficult to establish the finding of an overfished stock. In any case, how to define a “biologically sustainable level” is very flexible as well: it is based on reference points which might include the concept of “Maximum Sustainable Yield” or alternative methods, which are pertinent in the case of data-poor fisheries. Furthermore, Regional Fisheries Management Organizations (RFMOs) like the General Fisheries Commission for the Mediterranean (GFCM) or the International Commission for

the Conservation of Atlantic Tunas (ICCAT), or other Regional Fisheries Management Arrangements (RFMAs), can decide a fish stock status without basing themselves on figures. In this way, political decision-making by such bodies is implicitly supported. This means that, for instance, if sufficient countries fishing in the Mediterranean Sea want to continue subsidies, they could declare the fish stock as sustainable or unsustainable, regardless of actual fish stock status. Finally, in the event that a fish stock is found to be overfished, subsidies can continue if they are ‘good’ subsidies or part of a long-term plan to rebuild the stock to sustainable levels.

3) *Overfishing and Overcapacity*

The third category concerns subsidies contributing to overfishing and overcapacity. Examples of such subsidies are subsidies to construct or renovate fishing vessels, subsidies to the purchase of machines and equipment for vessels, fuel subsidies and subsidies covering operating losses of vessels or fishing related activities. This was the most significant part of the draft Agreement. It also directly relates to SDG 14.6.

The draft text for negotiation at MC12 contained a prohibition on subsidies contributing to overfishing and overcapacity but was largely deleted in the interim agreement that was finally adopted in the early hours of Friday June 17, 2022. Further negotiations will focus on adding provisions for subsidies that contribute to overfishing and overcapacity.

Imbalance was a major contention. The draft text was drafted in such a way that enabled more developed countries – the major subsidizers – to continue subsidies, while developing countries with lesser capacity would be impacted if they do not have the means and resources to justify their subsidies. The draft contains flexibility for subsidies to artisanal fisheries in territorial waters, i.e. the first 12 nautical miles into the sea measured from the baseline (which usually follow the coast, but not always, particularly if there are islands close to the coast). However, artisanal fisheries were defined as “low income, resource poor and livelihood” fisheries. In other words, subsidies would be protected only if fishing is for one’s own livelihood, and if the fisher has a low income and is resource poor. In reality, most artisanal fishers would not be covered by this flexibility, as they may move further out into sea, and also sell their fish to others instead of eating it all themselves.

Major subsidizers could continue their subsidies under the so-called “sustainability flexibility”, allowing for the continuation of “sustainable” fisheries subsidies, if a country can demonstrate that measures are taken to maintain a “biological sustainable level” of the relevant fish stock. These ‘measures’ could be those taken by the country itself, or by another country, or by the relevant RFMO/A.

This would essentially be demonstrated by providing information to the WTO together with a country’s general WTO subsidy notification, which takes place at 2-year intervals. This would essentially guarantee a minimum period of subsidization for 2 years if the stock were to become depleted after the initial 2 years.

Countries would not need to ensure that said “measures” maintain a “biological sustainable level”, but rather that there are measures in place, which have sustainability as an objective. The word “maintain” means that the relevant fish stock is at a biologically sustainable level when the measures are taken. It would not require Members to demonstrate that fish stocks are sustainable when the subsidy is first

implemented. By definition, stock status refers to a historical stock status. The text did not clarify to which period the determination of biological sustainability should relate to. It did not require Members to furnish the most recent information, if available. So countries could rely on fish stock assessments that were conducted years ago, and which might not reflect the actual fish stock status.

Sustainability would need to be assessed vis-à-vis a “relevant fish stock”. Fish stock status can be assessed at the level of species but also for groups of species, or for all species. Keeping “relevant” undefined allows for a lot of flexibility. For instance, if stock levels are biologically sustainable for 60 species but considered overexploited for 40 species, the total for the 100 species might still be considered biologically sustainable. However, in reality, a Member might be able to provide subsidies for fishing of up to 40 overexploited species.

The sustainability of species belonging to the same ecosystem or associated with or dependent upon the target stocks was not considered. Nonetheless, the ecosystem approach is considered best environmental practice, and has been embedded in various national regulations, such as the 1996 *New Zealand Fisheries Act*, amongst others. A country providing subsidies to capture and kill dolphins to maintain levels of tuna could be considered sustainable.

INTERIM AGREEMENT

The adopted Agreement at MC12 eliminates the subsidy prohibition related to overfishing and overcapacity.

A main exception is the prohibition of subsidies to fishing in high seas in areas not under the competence of an RFMO or RFMA, sometimes erroneously referred to as “unregulated high seas”, which was maintained in the adopted agreement.

Unfortunately, almost no waters seem to be covered by this prohibition as virtually all high seas are within the competence of at least 1 RFMO/A, with possible exceptions such as the high seas of the Arctic Ocean and a small strip beyond the waters of Alaska. These areas, however, are arguably covered by RFMAs as well. “Competence” of an RFMO/A does not equate with management or sustainability. For instance, countries like the [UK are fishing for Patagonian toothfish in an area under the competence of the Commission for the Conservation of Antarctic Marine Living Resources \(CCAMLR\)](#), after parties were unable to agree on catch limits.

The adopted Agreement equally reduces some of the notification requirements. It also deletes the proposal driven by India for the Agreement to cover fuel subsidies, which benefit fishing but are also provided to other sectors (e.g. to all vessels including container vessels, or other sectors of the economy), which refer to so-called “non-specific” fuel subsidies.

WHAT DOES THIS MEAN FOR SMALL-SCALE FISHERS?

Overall, the outcome of the slimmed-down Agreement is arguably similar to the provisions of the draft Agreement – the end result in both texts is that the bulk of fisheries subsidies can continue. WTO Members have committed themselves to continue negotiations to add further provisions including on overfishing and overcapacity in order to have ‘comprehensive disciplines’ responding to SDG 14.6.

The current Agreement is still to be ratified. Once entry into force is attained through ratification by 2/3 of WTO Membership, i.e. 109 WTO Members (EU counting as 28

Members), the agreement will however cease to exist if, 4 years after entry into force, agreement on comprehensive disciplines has not been reached. This may initially be a barrier to ratification, as parliaments will be asked to ratify a partial agreement on which negotiations are ongoing. As a result, we could have an agreement which will be 'hanging in the air' for a while yet. Time will tell.

The fact that WTO Members were able to reach an agreement on fisheries subsidies is commendable. Nevertheless, this adopted Agreement can hardly claim to globally save fish, nor to support and accelerate the shift to sustainability. The continuation of subsidies will profit large-scale fisheries leaving out small-scale fishers. The world will most likely witness further depletion of fish stocks and degradation of marine resources, undermining the livelihood of small-scale fishers and coastal communities.

THE 30X30 CONSERVATION RACE: A DILEMMA FOR SMALL-SCALE FISHERS?

Felix Mallin and Hugh Govan

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“... what is truly needed is a strengthening of rights-based approaches that address the threats in a geographically, economically and culturally sensitive context. But 30x30 is a much easier political solution: it sounds good, it fits a meme, it makes everybody think that a lot is now being done, so business can go on as usual.”

Setting aside 30% of the planet’s surface for conservation by 2030, otherwise known as ‘30x30’, has perhaps become today’s most resounding catchphrase in global conservationist circles. As of July 2022, more than 100 countries have joined the [High Ambition Coalition for Nature and People](#) (HAC), a group of states rallying behind the 30x30 target, including all G10 countries. The campaign is being driven by conservation foundations and affiliated scientists as well as corporations and financial institutions advocating for a global new [deal for nature](#).¹ Put simply, the stated ambition of their call is to link the Paris Agreement and the *Convention on Biological Diversity* (CBD), in a bid to combine terrestrial and marine biodiversity protection with climate action under a single umbrella. There is now a strong expectation that 30x30 might be formally endorsed when the parties to the CBD convene to adopt [a post-2020 global biodiversity framework](#) (GBF) in Montreal in December 2022.

Whether this constitutes a realistic target remains highly uncertain. Its apparent simplicity belies a lack of agreement on the degree of protection (or exclusion) that is called for, and whether it should be applied by all countries equally. Almost all aspirational targets set by governments for the environment in the past have failed. Indeed, the Aichi targets, agreed to by the CBD in 2010, set the ambition of creating 10% marine protected area (MPA) coverage by 2020. Globally, this target has [nearly been achieved \(8%\)](#), but [the diversity of outcomes between countries and contexts](#) hardly supports ramping up more of the same. Issues of effective implementation or appropriate siting of MPAs seem to have been overlooked. Making the new target even more likely to fail is that some large coastal countries have not joined the HAC, including Brazil, China, Russia and Indonesia. However, beyond the question of how feasible it is, there are urgent questions over the desirability of the 30x30

PEER-REVIEWERS |

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PHOTO | Hugh Govan

01 The lead author of the Rockefeller Foundation-funded 2020 study proposing the 30x30 target was previously chief scientist at World Wildlife Fund and is now a director at Resolve; a Washington-based non-profit consultancy that brings [“policy, strategy, and communications expertise, and networks, seed funds, and impact finance to its project partners”](#), which include trans-national mining companies, such as Rio Tinto.

campaign as well. This is particularly important from the perspective of large numbers of small-scale fishers for whom rapidly enlarging MPAs could be threatening to their livelihoods.

The following conversation between Felix Mallin and Hugh Govan unpacks some of the implications of a global 30% target for the oceans and what might be at stake for small-scale fishers and other coastal communities in terms of access and control over marine resources.

Felix Mallin [FM]: Hugh, thanks so much for taking the time to share your views on 30x30. Could you say a few general words on where you see the merit of protecting biodiversity and mitigating effects of climate change through Protected Areas and area-based management tools? And how wise is it to suddenly ratchet up such tools to 30% of planetary space within the span of a few years?

Hugh Govan [HG]: Protected Areas can be effective instruments for the sustainable management of biodiversity, fisheries, or even cultural values. The human species has millennia of experience of working with them. In the right circumstances they are, without doubt, an excellent tool. That said, biodiversity is integrated into human activity and food provision at all levels. Sometimes for good, sometimes for worse, yet it always remains interwoven within complex socio-ecological relations. In other words, you cannot really be sure that if you pull one string, you won't unravel the whole thing. With 30%, we are talking about a vast array of habitats: from deserts, jungles and mountains to coastal wetlands, reefs and open oceans. It is impossible to assert that there is a tool that should cover an equal proportion of all these habitats around the globe. The diverse countries that are now going to be blanketed with 30% all have distinct governance systems, distinct nutritional dependencies on their own resources, and their respective ecosystems are in vastly different shapes. So, you would expect tailoring of approaches to manage biodiversity on a case-sensitive basis, whether on inhabited land or in the open sea.

FM: Speaking of marine environments, when we think of ocean-space, there are enormous geographical and socio-economic differences amongst coastal and island nations. 30% means one thing for countries like France, United Kingdom or the United States, as these countries control millions of square miles of Exclusive Economic Zones that are remnants of their colonial dominions. Compare this to other HAC supporters like India, Cambodia or Senegal, where uninhibited access to lakes and oceans is the crucial lifeline for millions of small-scale fishers. Are countries in the South signing on to something which will bring unintended obligations and consequences?

HG: It is important to realize that the target, if adopted at the CBD meeting in December, is not going to be a decision based on careful scientific considerations. As the 30x30 advocates openly admit, it is a [political bargain](#). An idea is being proposed by the North and the South will be negotiating to get the best deal possible. Theoretically, the South should be in a strong position because most of the remaining biodiversity, including global fish stocks, is left with them. Yet, what is worrying is that there is a high risk the final decision could be influenced by positive publicity and attracting new conservation dollars from big donors. The recent [controversial debt-for-ocean swaps](#), for example, illustrate how governments can commit to dubious environmental promises when these are tied to short term fixes for a national debt crisis. I am aware of several countries that have formally endorsed 30x30, where people inside the government are highly uncomfortable with the idea.

For the political leaders it is an opportunity for funding and prestige that they do not want to forgo. Yet, for those that ought to translate and implement this nationally and locally, it is a potential disaster with knock-on effects ranging from the implementation of existing environmental management strategies to additional strains on already tight budgets. [Expert studies](#) for [African](#) and other developing nations are very clear in highlighting that there are environmental management issues that need to be addressed *before* 30x30 can become a useful contribution to biodiversity protection. At the most basic level, this concerns adequately funded and staffed government departments responsible for fisheries or environmental conservation. Without such basic government capacity in place, the 30% target will likely result in a ballooning of new paper parks; that is, areas that are legally designated but have no effective management. Ultimately, I think, this focus on 30x30 could mean government agencies have to enforce a relatively pointless target, when they are not even able to police crucial priorities such as ocean pollution generated by industries or to enforce Environmental Impact Assessments and management plans. Besides, it is also likely to [undermine local conservation](#) models and result in a further constraining of access rights for small-scale fishers, who will be involuntarily compelled to rescind their food sovereignty for an international paper target without receiving adequate compensation or alternative provisions. Continuing the trend we have seen over the previous three decades, it might actually propel the vicious cycle of smuggling, [piracy](#) and fishers' criminalization.

FM: Now, for some leaders, even 30x30 is not enough. Clearly to the delight of the big philanthropic donors and ocean celebrities present in the room, outgoing President of Colombia Iván Duque commended his country for taking a '30 before 30' approach at the recent [United Ocean Conference in Lisbon](#), which he touted a moral imperative: "this is not political, this is not ideological, this is for the favor of humanity". While in Lisbon, he was in fact dodging the ceremony for the release of the country's long-awaited [truth commission report](#) back home. Plainly, leaders that are domestically unpopular enjoy being champions for the environment on the international stage, especially when that might help them secure a comfortable UN post after their terms. This brings us to the current lobby campaign for 30x30 and the question of legitimacy. Both its ecological and [economic rationales](#) are being formulated in [a certain scientific milieu](#) situated in the affluent parts of the world. Conversely, the potential [social and economic repercussions](#) of the target have not been the subject to proper parliamentary debates or consultative processes in most states. Are the 30x30 champions aware of the political risks of their campaign, which is characterized by a hurried top-down approach?

HG: There are genuine conservationists that still believe that the fortress conservation model (exclude humans and everything will be alright) is what the planet needs. Moreover, the experience of the past 40 years has shown to them that lobbying governments directly is much more effective than going through democratic processes. A cynic might say that they have taken a page out of the same book as the capitalists who have wrought havoc on the planet for their profits. This political hubris is particularly acute in the booming [conservation finance industry](#). Therefore, a common problem small-scale fishers face is that when new environmental regulations or no-take MPAs are introduced, they are usually enforced on them; disproportionately affecting those living under already precarious circumstances, and who often have limited means for political voice. Meanwhile, the truly problematic users such as industrial fisheries or oil and gas are spared. This is unsurprising since they are much better connected to both governments and conservation donors. If you talk about legitimacy, what is truly needed is a strengthening of

[rights-based approaches](#) that address the threats in a geographically, economically and culturally sensitive context. But 30x30 is a much easier political solution: it sounds good, it fits a meme, it makes everybody think that a lot is now being done, so [business can go on as usual](#).

FM: Yet, there are factions of conservation scientists that maintain no-take MPAs have been [very effective in biodiversity conservation](#), and indeed more so than fisheries management. They claim that it is the most promising path to restore ecosystems and that MPAs have positive spill-over effects for adjacent fisheries and biodiversity. Is there scientific consensus on this view?

HG: Well, there are many studies on coral reef systems and other inshore areas showing a whole range of outcomes. If effectively implemented, then biodiversity will likely be protected from extractive impacts and in some cases this may allow fish stocks to replenish, breed and contribute to coastal fisheries. But by no means is this scientific consensus without many caveats on where MPAs are located, whether other threats are addressed, and especially whether they are effectively implemented. All these concerns become compounded with the size of the protected area. We have data and studies to show that managing migratory stocks like skipjack tuna through so-called large-scale MPAs [is not a cost-effective option](#). Plus, most of the negative impacts on biodiversity are not necessarily happening inside the areas being designated for protection and are likely a lot more complex to deal with. Crucially, they only work if backed by considerable investment into things that are not very attractive to philanthropic donors and aid agencies, such as functioning day-to-day governments with budgets, policing and anti-corruption work. So, biodiversity-concerned governments in the South, who wish to maintain independence from donors but simultaneously need to generate income from fisheries, would be ill-advised to close off 30% rather than opting for cost-effective management approaches. For instance, without external assistance the nine signatory states of the [Nauru Agreement](#) in the Pacific, situated across the major skipjack tuna range, implemented their own management system, which by all accounts has led to the most [sustainably managed tuna fisheries in the world](#). In Tuvalu, the enormous rise in fee income allowed the government to [increase the spending for local governance on outer island communities](#).

FM: That sounds rather promising. In fact, more recently, at least in academic writing and political rhetoric, we could witness an amplification of social justice-focused and community-based marine conservation postulates. What do you think is the current outlook for small-scale fishers and how might they best position themselves in this debate?

HG: The mutually reinforcing benefits of respect for small-scale fishers' rights to access and global ocean health is well-established. It was reiterated in their recent [declaration](#), following the frustrating UN Ocean Conference, where other actors repeatedly tried to instrumentalize the voices of small-scale fishers and indigenous communities to their own ends. Usually, small-scale fishers are very pragmatic about how sustainable use can contribute to conserving nature as well as sustaining their livelihoods and fish supplies to the population. This utilitarian approach does not necessarily sit well with some conservationists, and though it may reflect wiser sustainable use and guardianship of coastal resources, say, by Indigenous Peoples, it may also reflect fisher or community self-interest in terms of sustaining the coastal resources that provide their livelihoods. But having to accommodate an externally imposed proportion of their fishing grounds being removed from use, or any

rigidity in what otherwise might be adaptive management, will add another huge burden to their already complicated situations. Confederations of fishers in the Pacific, for example, have long called for [100% management](#) models. Such models tick all the boxes. Sadly, they still seem too complicated and undesirable politically to be supported by leaders, compared to just saying: we are closing off 30% of the ocean, especially, if we can count parts of the oceans that nobody can see. In sum, it might be politically beneficial for the case of global small-scale fishers to forge stronger alliances with terrestrial biodiversity struggles. I believe people would take much more interest in the debate if they realized that 30% applies to land as well. When landholders start asking: which third of my land is going to be cut out for a particular use, then skirting consultation and discussion will become incrementally more difficult.

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