

**Tenure and Tenure Guidelines: Some reflections from a small-scale fisheries perspective**

**Chandrika Sharma**  
**International Collective in Support of Fishworkers**

# Tenure and food security

For small-scale fishing communities safeguarding tenure rights to fishing grounds and aquatic and fisheries resources on which they have traditionally depended, as well as to coastal residential habitats and other lands traditionally used by them, is of paramount importance as these are the very basis of their food security and their livelihoods, as well as an integral part of their culture and customs.

# Tenure issues in fisheries

- In fisheries rights not clearly established or recognized (unlike in many agricultural situations)
- Small-scale fishworkers have consistently demanded secure rights to access, use, manage and benefit from resources in the sea, intertidal zones and inland waters.
- They have demanded secure rights to coastal lands for residential, cultural and occupational purposes (often not recorded or recognized).

# Priorities from a SSF pers

- ensuring that customary rights, and related systems of governance, are recognized and protected (while challenging patriarchal customs and practices)
- ensuring that existing (present) rights are protected (incl. artisanal zones) and systems of management and governance are facilitated/ recognized
- ensuring that marine tenure in relation to small-scale fisheries is given preferential treatment over large-scale fisheries (industrial fisheries), and other uses of marine space (promoting SSF model)
- establishing the most appropriate forms of marine tenure rights so that SSF can be protected from other competing use of marine space (MPAs, wind farms, oil exploration...)

# Priorities from a SSF pers

- Build on the shared understanding of fisheries as a common resource that is collectively accessed, and that can be collectively managed. Maintaining the “commons” nature of the resource is vital (including from a gender and food security perspective)
- Question certain forms of property rights (e.g. ITQs) that lead to privatization of resources in favour of certain interests, such as full-time professionals, while keeping out seasonal, part-time harvesters.
- Secure access to coastal lands and habitats (in the face of enormous pressure of takeover of such lands)

# Some issues

- Customary rights need to be documented/ recorded, including traditional migration systems
- Sector is dynamic--SSF has expanded its areas of operation and the effort is to expand the SSF model to the EEZ. Problems of “recording” rights in fisheries. Will it be used to “box in” fishers?
- What forms of rights should be sought? May differ with different contexts
- Access to land and access to marine/ inland resources is linked. Communities have to live next to the resources they fish.

# Tenure Guidelines

- Tenure issues in fisheries are not well enough reflected in the Tenure Guidelines. More oriented to land.
- Many sections already closed  
However, the overall framework recognizes some critical issues/ principles: human rights, customary tenure, gender equity.

# Tenure Guidelines: Section 8

On **commons**: From revised draft

Noting that there are [many] publicly-owned lands, fisheries and forests that are collectively used and managed, States should, where applicable, recognize and protect [such] commons, and the related systems of collective governance, [including in processes of allocation of publicly-owned lands, fisheries and forests.] *(new paragraph proposed and discussed in plenary)*



# Tenure Guidelines: Section 8

On **commons**: proposed change

"Noting that there are many publicly-owned lands, fisheries and forests that are collectively used and managed **by communities as commons**, States should, where applicable, recognize and protect such commons and the related systems of collective governance, including in processes of allocation of publicly-owned lands, fisheries and forests."

# Tenure Guidelines: Section 11

## Markets

11.2 [States should facilitate the operations of efficient and transparent markets to promote participation under equal conditions and opportunities for mutually beneficial transfers of tenure rights which lessen conflict and instability, create incentives for sustainable use of land, fisheries and forests and conservation of the environment, expand economic opportunities and increase participation by the poor. **States should regulate markets for transfer and lease of resource rights** and provide safeguards to protect local communities, indigenous peoples and vulnerable groups, and to prevent undesirable impacts from, inter alia, excessive land speculation, concentration **(of land, fisheries and forests)**, abuse of customary forms of tenure and exploitation of native species....

# Tenure Guidelines: Section 12

## Investments

12.5 [States should [consider] [prevent] risks posed to human rights, livelihoods, food security and the environment due to large-scale [land acquisitions, concessions and leases] [transactions] that involve conversion of land (fisheries and forests) used by local communities, families and individuals [to commercial activities]. In that sense, States should provide for additional safeguards. [such as by limiting the scale of tenure rights to be transferred as a result of [acquisitions, concessions, or leases] *or* [transactions] (such as by introducing ceilings on permissible land transactions) or by providing for additional safeguards in case of proposals of tenure rights transfers exceeding certain scale (such as by parliamentary consultation).]

# Tenure Guidelines: Section 22

Transboundary matters

22.2 All parties should contribute to an improved understanding of transboundary issues of tenure, such as pastoralists whose traditional grazing areas or seasonal migration routes lie across international boundaries, and fishers who traditionally follow fish stocks **or whose traditional fishing grounds are located** across international boundaries.

# Tenure Guidelines: Definitions

A **fishery** is an activity leading to harvesting of fish. It may involve capture of wild fish or raising of fish through aquaculture.

*Proposed*

**Fisheries** should be taken to include all inland and marine fisheries resources and related harvesting or enhancement activities.

*Proposed definition of fishers*

**Fishers** refers to those who actually harvest fisheries resources as well their communities.

# Tenure Guidelines

Need to add international instruments in fisheries:

- UNCLOS
- UNFSA
- CCRF

Use terms consistently

- small-scale food producers/ smallholder farmers

# Other issues

- Implementation Guideline can better reflect the priorities of small-scale fisheries in the context of food security
- The Voluntary Guidelines on SSF offer another important opportunity to look at fisheries tenure and food security issues. Should be supported