

PRIVATIZATION AND CORPORATE CAPTURE OF GLOBAL FISHERIES POLICY

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“Talk of the ocean as a new economic frontier, of a new phase of industrialization of the seas, will become widespread in 2016”.
The Economist, 2015²

As we move towards the end of 2016, The Economist’s prediction seems to have to some extent come true. Through the course of the past years, evermore actors have become interested in the very fundamental questions of how to best manage the ocean’s resources: who should control the resources, who should have access, on which terms and to what end? On the broader scale: what role should these resources have in our society?

Increasingly, these questions are discussed within the context of ‘Blue Growth’ initiatives, which are no longer merely debated amongst state officials, the fisheries sector and scientists but also by international environmental NGOs such as the World Wide Fund for Nature (WWF) and Conservation International, the financial sector including Credit Suisse and Goldman Sachs, and even military companies such as Lockheed Martin. In 2015 alone, a stream of international conferences on how to ‘invest in the Blue Economy’ and how best to attain ‘Blue Growth’ brought together all the actors. Within this frame, focus is on ‘triple benefit’ policy solutions for the ocean’s resources where everybody supposedly wins: communities, the environment and profits. In line with this idea of win-win-win solutions, a widely cited fisheries economist stressed in his report for The Economist’s World Ocean Summit on Blue Growth that fisheries can be turned into a “driving force of the blue economy for the long-term”, if the right policies are implemented.³ In the report, fisheries policy reforms across a range of countries are heralded for “reversing overfishing, reviving coastal communities, and bringing oceans back to life.”⁴ What was at the core of these ‘miracle’ reforms? The answer lies in the so-called ‘rights-based’ approaches.

‘PRIVATIZE-OR-PERISH’⁵

For readers of this report, the notion that a ‘rights-based’ approach to fisheries—with its affinity to human-rights talk—would have positive effects, might sound uncontroversial. However, behind what fisheries economists call ‘rights-based’ approaches are not *human* rights, but *property* rights—and for the most part private property rights. In contrast to the picture painted by ‘rights-based’ proponents, fisher peoples’ movements have denounced such privatization policies as ‘ocean grabbing’, stressing that they have adverse social and environmental consequences.

But where does this rights-talk come from? In 1989, an academic volume titled *Rights Based Fishing* introduced the concept and the proposition that the only way to avoid economic as well as environmental havoc in fisheries was to introduce private property rights over the fish resources and the market to govern them.⁶ The authors quite openly clarified that what they were calling for was the “enclosure and

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2 Goddard, Charles. “The Ocean Business: The Rise and rhetoric of the blue economy.” *The World in 2016, The Economist Magazine*, November 2, 2015. Available at: www.theworldin.com/article/10625/ocean-business.

3 Christopher Costello *et al.*, *The Potential for Global Fish Recovery: How effective fisheries management can increase abundance, yield and value*. UCSB, University of Washington & Environmental Defense Fund, 2015. p. 5.

4 *Ibid.*

5 Macinko, Seth. “Lipstick and catch shares in the Western Pacific: Beyond evangelism in fisheries policy?” *Marine Policy* 44 (2014): 37–41. Available at: www.researchgate.net/publication/259514077_Lipstick_and_catch_shares_in_the_Western_Pacific_Beyond_evangelism_in_fisheries_policy.

6 Neher, Philip A., Ragnar Arnason and Nina Mollet, eds. *Rights Based Fishing*. Springer, 1989. Available at: link.springer.com/book/10.1007%2F978-94-009-2372-0.

privatization of the common resources of the oceans.”⁷ As was stressed by one of the co-authors of the volume in a later article, the need for this enclosure and privatization is based on the assumption amongst some fisheries economists that property rights represent the pinnacle of human civilization:

*[...] without property rights, human society seems doomed to abject poverty. In fact, with little or no property rights, human society would be primitive indeed, not much different from the more advanced versions of animal societies [...]. It follows immediately that the fisheries problem would disappear if only the appropriate property rights could be defined, imposed and enforced.*⁸

Since then, such positions have become increasingly hegemonic and alarmist to the point that fisheries economists are now pushing what has been called a “privatize-or-perish dichotomy.”⁹

What these celebratory accounts often gloss over, however, is the devastating social consequences of such privatization programs that in reality lead to a select few winners while dispossessing the majority of the former resource users. As the resource is commodified, i.e. the right to fish can be bought and sold on a newly created market, the resource becomes concentrated in the hands of a few—those having the best access to capital.¹⁰ In Denmark—one of the heralded examples—the introduction of a ‘rights-based approach’ led to massive social disruption within and between coastal communities. A select few capital-strong boat owners amassed the resources through the “centralization [of fishing rights] on fewer larger vessels concentrated in fewer harbors.”¹¹ By 2015, one fishing enterprise owned fishing rights worth over €116 million (US \$130 million).

Similarly, when a ‘rights-based’ reform was introduced in post-apartheid South Africa, approximately 45,000 small-scale fishers had their rights taken away from them. After a protracted struggle by the dispossessed fisher peoples, this reform was eventually deemed unconstitutional in 2007 on the premise that it undermined fisher peoples’ human right to adequate food and nutrition.¹²

According to the two global fishers’ movements—the World Forum of Fisher Peoples (WFFP) and the World Forum of Fish Harvesters and Fish Workers (WFF)—these dynamics are not unique to either Denmark or South Africa. Rather, they are endemic to such ‘rights-based’ approaches. Pointing to experiences in many of the same countries that ‘rights-based’ proponents had highlighted positively, the movements have shown that “rights-based fisheries lead to de facto exclusion of small-scale fishers and the concentration of fishing rights with an elite minority, [therefore] rights-based fisheries are incompatible with small-scale fishing.”¹³

THE COASTAL FISHERIES INITIATIVE

Despite these experiences, similar programs are gaining ground at a global level, especially with the rise of the Blue Growth framework. The most recent example is the Coastal Fisheries Initiative (CFI). This program aims to reform fisheries in six countries spanning three continents: Cape Verde, Côte D’Ivoire, Senegal, Ecuador, Peru and Indonesia.

Over a period of four years, US \$238 million will be distributed through a number of projects in these countries.¹⁴ The implementing agencies are the Food and Agriculture Organization (FAO), the United Nations Environment Program (UNEP),

7 *Ibid.* p. 3.

8 Árnason, Ragnar. “Property rights as a means of economic organization.” Paper presented at the Use of Property Rights in Fisheries Management Fish Rights 99 Conference, Fremantle, Western Australia, November 11–19, 1999. Available at: www.fao.org/docrep/003/x7579e/x7579e03.htm#b2-Property%20Rights%20as%20a%20Means%20of%20Economic%20Organization%20R.%20Arnason.

9 *Supra* note 5. p. 40.

10 For a critique on the impact of similar processes in relation to seeds, another type of natural resources, please see insight box 1.1 “Farmers’ Rights to Seed: Conflicts in International Legal Regimes” in this issue of the *Right to Food and Nutrition Watch*.

11 Høst, Jeppe E. “A neoliberal catch: Access rights and the clash of coastal lifemodes.” Paper presented at the World Small-Scale Fisheries Congress, Bangkok, Thailand, October 18–22, 2010. p. 13. Available at: www.seafdec.or.th/wsf2010/CZAP-WS-FC%20Conference%20Proceedings/Concurrent%20Session%201-2/Jeppe_Host_Full_Paper_CZAP_WSFC_2010.pdf#page=13.

12 For more information, please see Danish documentary on small-scale fisheries on DR TV. “DR 2 Undersøger: kvotekonger og små fisk.” September 8, 2015. Available at: www.dr.dk/tv/se/dr2-undersoeger/dr2-undersoeger-kvotekonger-og-sma-fisk.

13 For more information on the case *Kenneth George and others vs. Minister of Environmental Affairs and Tourism* and the new small-scale fisheries policy it led to, please see: De Schutter, Olivier. “From Charity to Entitlement, Implementing the right to food in Southern and Eastern Africa.” *Briefing Note* 05 (2012): 13. Available at: www.ohchr.org/Documents/Issues/Food/SRRTF%20BN%2005_SouthernEasternAfrica_en.pdf. Please also see: TNI, Afrika Kontakt and Masifundise. *The Global Ocean Grab: A Primer*. Amsterdam: The Transnational Institute (2014): 45. Available at: www.tni.org/files/download/the_global_ocean_grab.pdf#page=45.

14 WFFP and WFF. “A call on governments to stop supporting the Global Partnership for Oceans and Rights-Based Fishing Reforms” (2013). Available at: www.worldfishers.org/wp-content/uploads/2015/11/WFFP-WFF-Call-on-Governments_GPO_200313.pdf.

15 For more information on the Global Environment Facility and Global Coastal Fisheries Initiative (CFI) Program, please visit: www.thegef.org/gef/International_Waters/Coastal-Fisheries.

the United Nations Development Program (UNDP), Conservation International, WWF, and the World Bank. CFI is funded jointly by the Global Environmental Facility (GEF), the implementing governments, environmental NGOs, foundations and private sector actors. Implementation is divided amongst the different organizations, with WWF implementing in Indonesia; UNDP, WWF and Conservation International implementing in Ecuador and Peru; and FAO and UNEP implementing in Cape Verde, Cote D'Ivoire and Senegal.

At the time of writing, the CFI is yet to be implemented. However, according to social movements WFFP and WFF, CFI's program framework document is firmly rooted in the idea that privatization is the only way forward for fisheries management in the targeted countries.¹⁶ In a November 2015 statement, they lament that "CFI has a blind belief in [so-called 'rights-based' fisheries], which aim at privatization of maritime resources as the cure-all to any and all problems relating to the environment as well as poverty reduction."¹⁷ As they point out, this is however not immediately clear from the document as it is couched in the language not of private property rights, but rather of "secure tenure and access rights," not specifying if these are indeed private rights. Instead, the CFI document is littered with a call for "secure rights" for "fishers, fishing communities and businesses."¹⁸ In tune with the logic of the abovementioned fisheries economists, it is argued that this spread of 'rights' will promote "environmentally, economically and socially sustainable resource utilization."¹⁹ This alludes to another development in fisheries jargon, where the 'rights-based' proponents no longer speak openly of privatization as they did in 1989, but instead use "strategically benign rhetoric" that masks the actual aims, not to mention consequences, of the 'rights-based' approach.²⁰ However, "[e]nclosure through privatization of access and commodification of rights can take many forms, even if the language changes."²¹

According to WFFP and WFF, "[t]he content in the [CFI document] has been developed and written by an exclusive set of people" and in this process the only form of 'consultation' that took place was the option of answering online questionnaires and participating in workshops. They stated that "[we were] reduced to the level of other 'stakeholders' on par with private-sector representatives, academics etc. although we are the ones who represent the people who stand to be most affected by the CFI."²²

Both of these aspects in the fisher peoples' movements' critique find their basis in the recently endorsed FAO *Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication*.²³ In paragraph 5.1, it is stressed that the guidelines support "equitable distribution of the benefits yielded from responsible management of fisheries and ecosystems, rewarding small-scale fishers and fish workers, both men and women".²⁴ Such an equitable distribution would seem to be severely contravened by the enclosure and privatization processes envisioned by the CFI. Furthermore, the top-down process leading to the CFI is the very opposite of the decision-making processes envisioned in the guidelines. These suggested processes should "ensure active, free, effective, meaningful and informed participation of small-scale fishing communities, including indigenous peoples [...] in the whole decision-making process related to fishery resources."²⁵ With such clear and unambiguous language, WFFP and WFF consider it highly provocative for CFI to claim that national policies for the six countries targeted for reform adequately reflect FAO guidelines. They state that, on the contrary, CFI disregards the guidelines both in its content and its process.

16 FAO. *Program Framework Document of the Coastal Fisheries Initiative*. Rome: FAO, 2015. Available at: worldfishers.org/wp-content/uploads/2015/11/GEF-CFI-Framework-document.pdf.

17 WFFP and WFF. "Fisherfolks say no to the Coastal Fisheries Initiative." (2015) Available at: www.worldfishers.org/2015/11/09/fisherfolks-say-no-to-the-coastal-fisheries-initiative.

18 FAO. *Supra* note 16. p. 18.

19 *Ibid.*

20 Macinko, Seth. *Supra* note 5. p. 40.

21 Longo et al., *The Tragedy of the Commodity: Oceans, Fisheries and Aquaculture*. Rutgers University Press. 2015. p. 53.

22 WFFP and WFF. *Supra* note 17.

23 FAO. *Voluntary guidelines for securing sustainable small-scale fisheries in the Context of Food Security and Poverty Eradication*. Rome: FAO, 2014. Available at: www.fao.org/3/a-i4356e.pdf.

24 *Ibid.* p. 5.

25 *Ibid.* p. 3.

BLUE GROWTH & OCEAN GRABBING

The critique concerning participation and representation in decision-making also points to the broader processes alluded to in the introduction. With the rise of Blue Growth, the past years have seen increasing ‘participation’ (or dominance) of a broad range of profit-seeking actors in questions and decisions of what to do with the ocean’s resources. Thus, fisher folk are not only competing with large-scale actors in the fishing sector to retain access and control over resources; they must now also contend with actors in the tourism, aquaculture, agriculture, energy, mining and infrastructure industries. In addition, actors engaged in conservation and climate mitigation efforts also appropriate aquatic resources from fisher peoples. As pointed out in the guidelines, because of their market power, these actors often have stronger political and economic influence over decision-makers than small-scale fisher peoples movements do. Therefore, Blue Growth potentially signifies a new phase of ‘ocean grabbing’, namely: “the capturing of control by powerful economic actors of crucial decision-making [...] including the power to decide how and for what purposes marine resources are used, conserved and managed.”²⁶

As regular readers of the *Watch* know,²⁷ the increasing corporate capture of global decision-making processes is by no means isolated to ocean resources, but part of a much broader process where the existing international framework, herein international human rights law, is continually undermined in favor of issue-driven alliances that are much more closely aligned with the needs and interests of the private/corporate sector. Especially in this light, the CFI is worrying. Despite the initiative’s own claims of upholding and furthering one of the few international tools aimed at strengthening the struggle of fisher peoples, fisher peoples themselves are deploring how the CFI will steadily undermine it.

26 TNI, Afrika Kontakt and Masifundise. *Supra* note 13. p. 3.

27 For more information on corporate capture of decision-making processes, please see last year’s issue of the *Right to Food and Nutrition Watch*, “Peoples Nutrition is Not a Business,” 2015. Available at: www.rtfn-watch.org/fileadmin/media/rtfn-watch.org/ENGLISH/pdf/Watch_2015/RtFNWatch_EN_web.pdf.