

FAO 2008: Indigenous peoples

Group discussion on theme:

- **“Indigenous people: how to recognize their rights and valorise their culture, institutions, knowledge, values and norms, for responsible fisheries?”**

Moderator: Bjørn Hersoug

Rapporteur: Angel Gummy

FAO 2008: Indigenous peoples

- **Indigenous peoples**
- **Ethnic minorities**
- **Small-scale fishing communities**
- **May have common interests but have different status in most international conventions**
- **Different routes and different strategies, depending on the situation:**
 - **Belonging to a tribe**
 - **Living in an area**
 - **Being an active fisher**

FAO 2008: Indigenous peoples

Some basic documents:

- Universal Declaration of Human Rights, 1948
- International Covenant on Civil and Political Rights, 1966,
- ILO Convention No. 169, Convention concerning indigenous and tribal peoples in independent countries, Geneva, 1989
- Convention on Biodiversity, UNCED Conference, 1992
- Agenda 21 of the United Nations Conference on Environment and Development (UNCED), Art.26, Rio de Janeiro, 1992
- UN Declaration on the Rights of Indigenous Peoples, UN, 2007
- Vienna Declaration and Programme of Action, World Conference on Human Rights, Wien, UN 1993
- International Decade of the World's Indigenous Peoples 1995 – 2004, UN, 1993

FAO 2008: Indigenous peoples

- The Group also took note of some of the definitions of indigenous people provided by two of the most relevant international instruments. They are:
- UN Declaration:
“Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of societies and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems.” (UN Doc. No.E/CN.4/Sub.2/1986/87)]

FAO 2008: Indigenous peoples

- ILO Convention 169

*“**tribal peoples** in independent states whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations;*

*peoples in independent countries who are regarded as **indigenous** an account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at time of conquest or colonisation or the establishment of present state boundaries, and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.”*

FAO 2008: Indigenous peoples

- **Review of the current situation:**
- **Reference was made to the progress achieved by the Sami indigenous people in Norway. It was pointed out that the recognition of indigenous rights was not yet achieved in the field of fishing rights although there were a proposal with good prospects of success under discussion in this regard;**
- **The main strategy followed by Sami indigenous people in claiming their rights has been based mainly on political actions, largely through the Sami Parliament**

FAO 2008: Indigenous peoples

- The Maori people (New Zealand) was considered the most successful people to achieve recognition of their fishing rights;
- Based on the Treaty of Waitangi
- Two routes: a percentage of the ITQs owned by the iwis (tribes) and a traditional fishery exclusively for Maori, for customary purposes (+ recreational rights!)
- The strategy privileged by the Maori in struggling for their rights was based on both legal and political actions
- Today very active in the management of the resources

FAO 2008: Indigenous peoples

- In Canada it was mentioned that there are many different indigenous peoples and that the results achieved in terms of recognition of their rights have been uneven.
- Some indigenous groups have been able to gain land rights but in many cases their way of life has been lost.
- One contentious issue has been the development right (fish for food only or also for commercial participation)
- Indigenous fishers, mainly located in the west coast have not been able to survive the impact of industrialisation.

FAO 2008: Indigenous peoples

- In the case of Africa, mainstream political thinking does not make distinction of indigenous people and other ethnic groups and entrance to fisheries is not restricted on basis of ethnicity, considering that all African populations are indigenous.
- Under these terms, it was mentioned that only the Masai indigenous population would meet the UN definition.
- There were however, a significant number of minority populations that were marginalised in terms of economic and social rights, among them some fisher populations. The latter were frequently affected by economic measures restricting their fishing activities which are often their only means of living.

FAO 2008: Indigenous peoples

- Indigenous peoples in Central and South America, including those who fish, remain outside the mainstream society and marginalised socially, economically and politically, in spite of their particular vulnerability.
- The high dependency on fishing activities of indigenous peoples in large river basins (Orinoco, Amazonas, and del Plata) and their livelihood vulnerabilities vis a vis external intrusions from various sources including last resort fishers were highlighted.
- It was also mentioned, the long and up to now successful struggle of the Kuna indigenous population in the Caribbean coast of Panama to maintain intact their legally recognised territorial autonomy and exclusive fishing rights.

FAO 2008: Indigenous peoples

- In most of Asia, indigenous people are acknowledged as such but rarely given a status which recognizes their special vulnerabilities. In some cases they are even discriminated against.

FAO 2008: Indigenous peoples

- Promising examples from northern countries (e.g.: New Zealand (Maori) and Norway (Sami) tend to indicate that success in the consideration of indigenous peoples fishing rights tend to take place in contexts of relative good governance.
- Indigenous people who depend on fishing for their livelihood are more vulnerable to outside intrusion because of their special cultural, social and religious dependence on their traditional (ancestral) land and resource base.
- In general terms, the recognition of rights of indigenous peoples and ethnic minorities has made progress, in particular in terms of international legal instruments.

FAO 2008: Indigenous peoples

Strategy:

- The firm and continuous battling for the cause of recognition of indigenous fishing communities to their territories, land and waters (and their fishing rights) in the judicial system, using international conventions.
- The political mobilisation (including organisation) to raise social awareness and to influence political decisions at all levels.
- The fishers in the driving seat, NGOs, academics and donors in supporting roles
- Generic strategies: see final report