# The role of National Human Rights Institutions in promoting the meaningful participation of small-scale fishers in marine and coastal resource governance and conservation

Outcome report from a peer-learning event on promoting a human rights-based approach to marine and coastal conservation management organized by the Danish Institute for Human Rights (DIHR) and the Network of African National Human Rights Institutions (NANHRI) and held in Nairobi, Kenya, on 19-20 March 2025



**The Role of National Human Rights Institutions in Promoting the Meaningful Participation of Small-scale Fishers in Marine and Coastal Resource Governance and Conservation**

The Danish Institute for Human Rights (DIHR) is Denmark's National Human Rights Institution. Its mandate is to promote and protect human rights and equal treatment in Denmark and abroad. DIHR thanks the Network of African National Human Rights Institutions (NANHRI) for their contribution to this project. This report was developed as part of a collaboration between DIHR and NANHRI as part of the 'Sustainable Oceans 2024-2027' programme, made possible thanks to the support of the Swedish International Development Agency (Sida). Responsibility for all contents rests with the authors.




**Authors:** Emma Thomas (Consultant), Magdalena Ruiz Liard Krysa (Danish Institute for Human Rights (DIHR)), and Furaha Charo (Network of African National Human Rights Institutions (NANHRI)). The authors give thanks to Sille Stidsen, Maria Ploug Petersen and Juan José Verhelst for their review and input.

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© 2025 The Danish Institute for Human Rights
Denmark's National Human Rights Institution
Wilders Plads 8K, DK-1403 Copenhagen K
+45 3269 8888
info@humanrights.dk
humanrights.dk

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# Abbreviations

**ACHPR** – African Charter on Human and Peoples' Rights
**AFRISH-NET** – Pan African Platform of Non-State Actors in Fisheries and Aquaculture
**AWFishNET** – Africa Women's Fish Processors and Traders Network
**CEDAW** – Convention on the Elimination of All Forms of Discrimination Against Women
**CSOs** – Civil Society Organizations
**DIHR** – Danish Institute for Human Rights
**EARFISH** – East Africa Platform of Non-State Actors in Fisheries and Aquaculture Sector
**FAO** – Food and Agriculture Organization of the United Nations
**FPIC** – Free, Prior, and Informed Consent
**HRBA** – Human Rights-Based Approach
**ICCPR** – International Covenant on Civil and Political Rights
**ILO 169** – International Labour Organization Convention 169 / Indigenous and Tribal Peoples Convention
**IUU** – Illegal, Unreported and Unregulated (fishing)
**MPA** – Marine Protected Area
**MSP** – Marine Spatial Planning
**NANHRI** – Network of African National Human Rights Institutions
**NHRI** – National Human Rights Institution
**OHCHR** – UN Office of the High Commissioner for Human Rights
**SSF Guidelines** – Small Scale Fisheries Guidelines / FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries
**UNDRIP** – United Nations Declaration on the Rights of Indigenous Peoples
**UNDROP** – United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas
**UNESCO-IOC** – United Nations Educational, Scientific, and Cultural Organization – Intergovernmental Oceanographic Commission
**WWF** – World Wide Fund for Nature

> States must take appropriate measures to promote and protect the rights and traditional knowledge, innovation and practices of small-scale fishers, which are relevant to the conservation and sustainable use of biological diversity."

Report of the Special Rapporteur on the human right to a clean, healthy and sustainable environment, The Ocean and Human Rights, paragraph 81.

# 1. Introduction

On the 19 and 20 March 2025, representatives from 10 African National Human Rights Institutions (NHRIs) participated in a two-day peer-learning event in Nairobi to enhance their capacity on promoting a human rights-based approach to marine and coastal resource governance and conservation. The peer-learning event discussed how NHRIs can play a significant role in the promotion of a human rights-based approach to marine and coastal resource governance and conservation due to their mandate, as outlined in the Paris Principles[1]. NHRIs are state-mandated institutions with a broad constitutional or legal mandate to protect and promote the full range of human rights, encompassing civil and political as well as economic, social, and cultural rights. While NHRIs are independent of the government, they are uniquely placed to report on human rights issues to the government and to provide advice and recommendations. Their broad mandate also enables them to investigate and monitor human rights issues based on complaints from the public, and to raise public awareness on said issues through education and training. NHRIs can act as a bridge between government, private sector and civil society, as well as a convener of relevant actors for the protection and promotion of rights.

The peer-learning event also underscored that for marine and coastal resource governance and conservation to be just and sustainable, there must be a consistent human rights-based approach (HRBA). An HRBA aligns development programming with human rights principles and standards and seeks to foster inclusive development with a particular focus on marginalized groups. It does this by integrating human rights standards into every phase and thematic area of policy and programming. This helps to ensure sustainability, by empowering people themselves, especially the most marginalized, to participate in policy formulation and demand accountability. In an HRBA, every human being is a rights-holder, and State actors are duty-bearers. Other actors such as private companies or conservation organizations can be considered secondary duty-bearers with a responsibility to respect rights. Rights-holders are entitled to universal human rights, which are enshrined in instruments of international, regional, and domestic law. They are entitled to claim these rights and to hold duty-bearers accountable for the implementation of their obligations and to seek remedy when rights are violated. Meanwhile, as duty-bearers, States have an obligation to respect, protect, and fulfil the rights of rights-holders. An HRBA develops the capacities both of rights-holders to claim and exercise their rights effectively, and of duty-bearers to fulfil their human rights obligations. The approach is further rooted in five principles known as the APNAT principles[2]:

- **A**lignment with human rights standards and mechanisms
- **M**eaningful and inclusive **P**articipation, and access to decision-making processes
- **N**on-discrimination and equality
- **A**ccountability and access to justice
- **T**ransparency and access to information

NHRIs have a unique mandate to promote an HRBA to marine and coastal resource governance and conservation, particularly by ensuring the meaningful and inclusive participation of small-scale fishing communities in decision processes. However, their involvement in this area has been limited.

Taking this into account, the Network of African National Human Rights Institutions (NANHRI) has been collaborating with the Danish Institute for Human Rights (DIHR) to strengthen the capacity of member NHRIs to advocate for the rights of small-scale fishing communities. Among others, they have jointly developed a guide on NHRI engagement with the Blue Economy[3].

Furthermore, the two institutions organized a peer-learning event for selected African NHRIs to share regional experiences and engage with experts on the topic of a human rights-based approach to marine and coastal resource governance and conservation.

Day 1 of the peer-learning event focused on introducing key concepts. NANHRI and DIHR presented an overview of human rights issues present in small-scale fishing communities and identified opportunities for NHRIs to intervene. Experts from the World Wide Fund for Nature (WWF) and Conservation International presented their conservation activities in small-scale fishing in Kenya and Liberia respectively, highlighting the importance of a human rights-based approach. Representatives from four of the participant NHRIs also shared their experiences of protecting and promoting the rights of small-scale fishing communities, including in the context of conservation. In addition, participants were put into groups and assigned fictional case studies of small-scale fishing communities with various human rights issues; they were then asked to place themselves in the role of the relevant NHRI, map the human rights situation, and provide concrete engagement strategies.

Day 2 highlighted the challenges and opportunities of applying a human rights-based approach to coastal and marine resource governance and conservation. Experts from FAO Kenya and Tanzania presented their experiences implementing the FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the context of Food Security and Poverty Eradication (SSF Guidelines), and an expert from the UNESCO Intergovernmental Oceanographic Commission (UNESCO-IOC) presented on a human rights-based approach in the context of Marine Spatial Planning (MSP). Representatives from three civil society organizations (CSOs) working on topics related to small-scale fishing (AFRISH-NET, AWFishNET, and EARFISH) also shared their views and experiences regarding the topics discussed, reflecting the perspectives of affected communities. The peer-learning event closed with the participants sharing their conclusions from the case study exercise.

This report presents a summary of the substantial discussions during the peer-learning event, presented in a curated and coherent way, with a view to making it relevant to a broader range of NHRI colleagues than those attending the peer-learning event.

# 2. Context: Intersections between coastal and marine resource governance and conservation and human rights

The coastal and marine ecosystems and resources that small-scale fishing communities rely on are currently facing multiple threats. Firstly, coastal areas are among the most vulnerable on the planet to the effects of climate change. The warming, acidification, and deoxygenation of the ocean is impacting marine ecosystems, which causes extinctions and the migration of marine species away from coastal areas and towards deeper and colder waters. Coastal marine habitats essential for fish such as mangrove forests, seagrass beds, and coral reefs are particularly affected, with only 1% of coral reefs expected to survive until 2050 in the case of a strong-mitigation scenario.[4] More than a quarter of small-scale fishers globally depend on coral reefs for the livelihoods, demonstrating the catastrophic impact that climate change-induced coral bleaching has and will continue to have on these communities. In general, the effects of climate change are expected to significantly reduce catches and revenue for these groups, especially in tropical zones. These communities themselves are also highly vulnerable to other impacts of climate change such as rising sea levels, coastal erosion, and increasing climactic hazards, including heavy rainfall and hurricanes. In addition to the broader threats posed by these impacts, they may also limit the ability of small-scale fishing communities to fish by restricting their access to coastal lands and waters.

These ecosystems and resources are also increasingly threatened by Blue Economy policies which promote the ocean as an area of economic growth and development. The Blue Economy is increasingly viewed as a priority by States and regions. In Africa, it is estimated that the Blue Economy generated a value of 296 billion USD as of 2019[5]. This is projected to increase to 405 billion by 2030, with the largest growth seen in the tourism, mineral, and oil and gas sectors.[6] As such, it has been identified by the Africa Union as a contributor to continental transformation, as detailed in the 2019 Africa Blue Economy Strategy[7]. However, insufficiently regulated and mitigated Blue Economy activities can harm coastal and marine ecosystems and thus the rights and livelihoods of small-scale fishing communities. The extraction of offshore oil and gas can destroy habitats and pollute waters, leading to declines in catch quantity and quality that impact the livelihoods and subsistence of small-scale fishing communities as well as affecting their health.[8] Similarly, the harvesting of living aquatic resources at scale through commercial fishing and aquaculture can result in depletion of fish stocks in some areas, especially where Illegal, Unreported and Unregulated (IUU) fishing by commercial vessels is common. Commerce and trade in and around the ocean, including sectors such as maritime transport, port infrastructure, and tourism, can also both harm the environment and violate the rights of small-scale fishing communities by limiting their access to marine areas and resources. For example, the construction of new ports, in addition to polluting waters, can result in dispossession and displacement of small-scale fishing communities as they are forced to find new fishing grounds.[9] The regulation of these activities, and the broader conservation and sustainable use of marine and coastal areas and resources, is therefore essential for the protection and promotion of the rights of small-scale fishing communities.

While it is evident that marine and coastal resource governance and conservation is highly necessary, the policies and regulations put in place to prevent or mitigate the negative outcomes of climate change and development can also violate the rights of small-scale fishing communities when not based on an HRBA. It is crucial to ensure the meaningful and inclusive participation of small-scale fishing communities in marine and coastal resource governance and conservation. Without the participation of these communities in shaping conservation policies, there is a risk they are designed in ways that have negative implications for their livelihoods. This is especially relevant regarding Marine Protected Areas (MPAs) and No-Take Zones, or areas within MPAs in which all extractive activities including fishing, mining, and drilling are banned without exception. While these areas and No-Take Zones are important for conservation, they can have a disproportionate impact on small-scale fishing, as they do not necessarily have the flexibility of commercial fishing vessels to move to deeper waters or other ocean areas to avoid economic losses.

It is therefore crucial to follow a human rights-based approach when marine and coastal resource governance and conservation initiatives are designed and implemented, and failing to do so can violate the rights of small-scale fishing communities. For example, in a study of five MPAs across South Africa, it was found that most small-scale fishing communities did not benefit equitably from the Areas and the increased protection of resources they engendered, but instead struggled or were unable to sustain their livelihoods due to limits on harvests.[10] In three of the MPAs, some communities temporarily lost all access rights to marine resources, and in the remaining two, their access remained strictly limited through subsistence permits. Attempted mitigation through the creation of alternative livelihoods was ineffective, as the small-scale fishing communities did not benefit from increased ecotourism to the areas, and jobs created through poverty-alleviation programmes were short-term and unsustainable. The MPAs therefore disrupted the livelihoods of the local small-scale fishing communities without providing viable alternatives. It was noted that the communities in this case were unaware of their rights and were not empowered to participate meaningfully in the management of marine resources.

Similarly, an MPA in Tanzania caused a local small-scale fishing community to lose access to formerly traditionally governed natural resources without gaining compensation or sufficient alternative livelihood opportunities.[11] In this case, the General Management Plan for the area was published in English and not translated into the local language for seven years, and the consultation and participation of the local small-scale fishing community was not prioritized during implementation. In both cases, the lack of participation from local small-scale fishing communities led to oversights in the policy design that negatively impacted their rights, in particular the rights to food, work, and culture.

As these examples demonstrate, it is crucial to ensure that an HRBA is taken to marine and coastal resource governance and conservation and that small-scale fishing communities meaningfully participate in decision-making processes to ensure that conservation policies respect, protect, and fulfil their rights.

# 3. The importance of applying a human rights-based approach to coastal and marine resource governance and conservation

Applying a HRBA to coastal and marine resource governance and conservation is not only important for realizing the human rights of small-scale fishing communities and a correlative obligation of duty-bearers, but also a crucial element for the efficacy and sustainability of marine and coastal conservation initiatives. In many cases, these communities, especially those in particularly remote areas, may be unaware of policies that they were not consulted on and are not involved in, leading to non-compliance. However, when small-scale fishing communities do meaningfully participate in policies and can ensure that their rights are upheld, compliance will increase and many communities will continue to actively participate in management and monitoring, with positive outcomes for coastal and marine resource governance and conservation.

For example, research on small-scale fisheries of marine resources at the bottom of the ocean has found that participatory co-management systems with strong governance can increase overall environmental sustainability.[12] Specifically, where there was shared decision-making between small-scale fishing communities and authorities, active participation of communities in all aspects of the policy (management, data collection and assessment), and exclusive rights granted to small-scale fishing communities, this was found to benefit most reef ecological function goals, contributing to conservation efforts. It was also found that the co-management system created a strong conservation ethic in participants, further increasing the likelihood of policy sustainability.

The sustainability benefits of co-management can also extend to other coastal and marine resource governance and conservation policies such as MPAs, as documented in Canada and Hawaii respectively. The Gwaii Haanas Heritage Site and National Marine Conservation Reserve in Canada was advocated for by local communities, specifically the Indigenous Haida Nation, and is co-managed by them, with the management board comprising three representatives each from the Haida Nation and the Government of Canada. The Reserve combines protected areas with an ecosystem-based management framework for fisheries, allowing local small-scale fishing communities to maintain their livelihoods in both the fishing and tourism sectors.[13] The management plan also reflects the importance of the area to Haida culture and spirituality, with sites of significant cultural significance to be protected under customary law. Similarly, Hawaii's Papahānaumokuākea Marine National Monument, a large-scale MPA containing the world's largest No-Take Zone, was advocated for by local communities, and is co-managed by them accounting for the area's significance to native Hawaiian culture. As such, cultural activities such as voyaging training and ceremonies are still permitted.[14]

The long-term success of and public support for these MPAs demonstrate the value of local and Indigenous participation in the planning and management of protected areas. In particular, it is essential that MPAs and similar policies respect local and Indigenous cultures and customs.

In addition, Indigenous Peoples and local populations who have lived and worked in environments for generations often possess traditional knowledge of the specificities of these environments and how they can be protected which can be vital for effective conservation efforts. In the specific context of coastal and marine resource governance and conservation, many small-scale fishing communities possess important traditional knowledge on sustainable fishing practices such as seasonal fishing, as well as on the marine ecosystem itself including the behaviors, breeding patterns, and habitats of various fish species.[15] For example, traditional knowledge has extended and augmented scientific baselines on migratory species such as the yelloweye rockfish, informing conservation research and policy.[16]

Moreover, due to extensive knowledge of and familiarity with local ecosystems, small-scale fishing communities are often the first to notice changes in biodiversity and can play a key role in monitoring and reporting on these changes. Participatory monitoring has been found to produce reliable and valuable data while enhancing local perceptions of sustainable resource management.[17] It is therefore vital that traditional knowledge, when shared with consent and when appropriately acknowledged and compensated for, is meaningfully incorporated into policies related to coastal and marine resource governance and conservation.

The meaningful participation of small-scale fishing communities in coastal and marine resource governance and conservation through traditional knowledge and participatory co-management can play a vital role in shaping policies to be productive, context-informed, adaptive, and sustainable.

# 4. Meaningful participation in coastal and marine resource governance and conservation

Marine and coastal resource governance and conservation designed without meaningful participation can result in violations of the rights to work, cultural life, and an adequate standard of living. Small-scale fishing communities are, however, rarely involved in decision-making processes that concern them, including those pertaining to conservation. Their meaningful participation in these processes allows their needs and concerns to be incorporated into policy formulation and is therefore directly linked to the fulfillment of their economic, social and cultural rights. This is one of the reasons why procedural rights, including the right to participation, information and access to remedy, are key in an HRBA to coastal and marine resource governance and conservation.

For example, when small-scale fishing communities participate in policy design, they can seek to ensure that policies and initiatives such as MPAs do not fully inhibit their ability to fish, thus preserving the right to food and food security in their families and communities. Similarly, through meaningful participation, small-scale fishing communities can promote respect for their cultural rights, with adequate references to their traditional methods of fishing and ancestral management practices.

It is important to note that women in small-scale fishing face additional barriers to participation due to gender-based discrimination and a lack of recognition for the role they play in the community, particularly in pre- and post-harvest work such as processing and selling fish. As such, even when policies facilitate the participation of small-scale fishing communities in general, women are still underrepresented and lack access to decision-making processes. Participation must therefore be understood as fully and meaningfully inclusive of women and other marginalized groups, ensuring a non-discrimination and equality approach. During the peer-learning event, the need for a gender-sensitive approach to participation based on cultural sensitivity was highlighted through concrete examples by the participants.

As the first international instrument dedicated entirely to the small-scale fisheries sector, the SSF Guidelines provide important principles for the meaningful participation in small-scale fisheries. These principles address policies, strategies and legal frameworks concerning small-scale fisheries, but also other matters affecting lives and livelihood in fishing communities. The SSF Guidelines are global in scope and aimed at all actors striving to secure sustainable small-scale fisheries, to end hunger and poverty and strengthen human rights. Thereby, the SSF Guidelines can guide dialogue, policy processes and actions at national, regional and international level.

Notably, the SSF Guidelines include the consultation and participation of small-scale fishing communities as a guiding principle, and consistently emphasize the importance of their ‘active, free, meaningful and informed’ participation in all policies and laws pertaining to their land and resources.[18] In particular, Article 5b on sustainable resource management highlights the importance of including small-scale fishing communities in all conservation

and sustainability measures, encompassing management and monitoring and surveillance measures. With specific reference to protected areas, Article 5.15 states that:

> "States should facilitate, train and support small-scale fishing communities to participate in and take responsibility for, taking into consideration their legitimate tenure rights and systems, the management of the resources on which they depend for their well-being and that are traditionally used for their livelihoods. Accordingly, States should involve small-scale fishing communities – with special attention to equitable participation of women, vulnerable and marginalized groups – in the design, planning and, as appropriate, implementation of management measures, including protected areas, affecting their livelihood options. Participatory management systems, such as co-management, should be promoted in accordance with national law."

The SSF Guidelines support and are complementary to international and regional human rights treaties, which are legally binding for States that have ratified them. The right to participation as outlined above can be found in many such treaties, with some relevant examples provided below.

**Table 1: Overview of regional and international human rights instruments mentioning the right to participation**

| Human Rights Instrument | | Article |
|---|---|---|
| **International** | **International Covenant on Civil and Political Rights (ICCPR)** | **25 (a)** - Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: To take part in the conduct of public affairs, directly or through freely chosen representatives. |
| | **UN Declaration on the Rights of Indigenous Peoples (UNDRIP)** | **20.1.** - Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.<br><br>**32.2.** - States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources. |
| | **UN Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP)** | **10.1.** - Peasants and other people working in rural areas have the right to active and free participation, directly and/or through their representative organizations, in the preparation and implementation of policies, programmes and projects that may affect their lives, land and livelihoods.<br><br>**26.1.**- Peasants and other people working in rural areas have the right to enjoy their own culture and to pursue freely their cultural development, without interference or any form of discrimination. They also have the right to maintain, express, control, protect and develop their traditional and local knowledge, such as ways of life, methods of production or technology, or customs and tradition. No one may invoke cultural rights to infringe upon the human rights guaranteed by international law or to limit their scope. |
| | **ILO C169 - Indigenous and Tribal Peoples Convention** | **4.1.** - Special measures shall be adopted as appropriate for safeguarding the persons, institutions, property, labour, cultures and environment of the peoples concerned.<br><br>**6.1.** - In applying the provisions of this Convention, governments shall: (a) consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly; (b) establish means by which these peoples can freely participate, to at least the same extent as other sectors of the population, at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programmes which concern them; (c) establish means for the full development of these peoples' own institutions and initiatives, and in appropriate cases provide the resources necessary for this purpose.<br><br>**6.2.** - The consultations carried out in application of this Convention shall be undertaken, in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent to the proposed measures.<br><br>**17.3.** - Persons not belonging to these peoples shall be prevented from taking advantage of their customs or of lack of understanding of the laws on the part of their members to secure the ownership, possession or use of land belonging to them. |
| | **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)** | **7. (b)** - States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right: To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government. |

| | | |
|---|---|---|
| **Regional** | **African Charter on Human and Peoples' Rights (ACHPR)** | **13.1.** – Every citizen shall have the right to participate freely in the government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law. |
| | **Maputo Protocol to the ACHPR** | **9.1. (c)**- States Parties shall take specific positive action to promote participative governance and the equal participation of women in the political life of their countries through affirmative action, enabling national legislation and other measures to ensure that: Women are equal partners with men at all levels of development and implementation of State policies and development programmes.<br><br>**9.2.** - States Parties shall ensure increased and effective representation and participation of women at all levels of decision-making.<br><br>**18.2.** (a)– States Parties shall take all appropriate measures to: ensure greater participation of women in the planning, management and preservation of the environment and the sustainable use of natural resources at all levels. |

For participation to be considered meaningful, certain core elements must be in place. These elements can be found in the human rights instruments outlined in the table above, as well as summarized in the UN Office of the High Commissioner for Human Rights (OHCHR) Guidelines for States on the Effective Implementation on the Right to Participate in Public Affairs[19]:

- Opportunities for rights-holders to participate must be in **good faith**, without manipulation or deception, and with rights-holders able to meaningfully contribute to decision-making processes.
- Participation should be an **ongoing process** that is ensured before, during, and after decision-making. This means that rights-holders should be given the opportunity to shape the decision-making agenda through mechanisms such as consultations, forums, or working groups. They should be able to participate in the decision-making process from an early stage with sufficient time and opportunity to make contributions. Following the outcome, they should be able to both assess the process and participate in monitoring and implementation.
- Consultation should be held with **legitimate representatives of the concerned rights-holders**. These representatives should be perceived by the rights-holders themselves as accurately representing their views, needs, and interests.
- **Sufficient and transparent information** should be made available and updated throughout the process. The right to access information is itself a procedural human right complementary to the right to participation.
- Information should be made available in **relevant languages and formats**, including all local languages. Formats should be both accessible and context-appropriate.
- Rights-holders should be **provided with a genuine opportunity to influence decisions**. For Indigenous Peoples in particular, this means that no decision pertaining to them or their territories should be made without their **Free, Prior, and Informed Consent** (FPIC). Consent is free when it is given voluntarily without coercion, intimidation, or manipulation; it is prior when it is sought sufficiently in advance of the relevant activity, and it is informed when given with accurate and accessible information.[20]
- Consultation should be **free of pressure**, with no risk of intimidation or reprisal for participants.

The right of local communities to meaningful participation in coastal and marine resource governance and conservation is also emphasized in some environmental instruments. For example, the African Convention on the Conservation of Nature and Natural Resources guarantees procedural rights in Article 16, which obliges States to adopt legislative and regulatory measures to ensure timely and appropriate access to information and public participation in decision making and the traditional rights of local communities[21]. Article 17 ensures that customary rights values inherent to Indigenous Peoples and local communities are reconciled with the provisions of the ACHPR, with Article 17.3 stating that:

> "The Parties shall take the measures necessary to enable active participation by the local communities in the process of planning and management of natural resources upon which such communities depend with a view to creating local incentives for the conservation and sustainable use of such resources."

This provision is in line with Principle 22 of the Rio Declaration on Environment and Development, which recognizes the vital role of local communities in environmental management.[22] NHRIs can also draw from these regional and domestic environmental

instruments when protecting and promoting the participation rights of small-scale fishing communities in the context of environmental conservation.

The value of traditional knowledge of Indigenous Peoples and local populations for conservation is also increasingly recognized in environmental instruments, including the Kunming-Montreal Global Biodiversity Framework, which signatories to the Convention use as a framework for their national planning of biodiversity conservation measures. Target 9 states that:

> "Ensure that the management and use of wild species are sustainable, thereby providing social, economic and environmental benefits for people, especially those in vulnerable situations and those most dependent on biodiversity, including through sustainable biodiversity-based activities, products and services that enhance biodiversity, and protecting and encouraging customary sustainable use by indigenous peoples and local communities."[23]

# 5. The Role of National Human Rights Institutions

While the capacity of NHRIs can vary based on their legal or constitutional mandate, there are generally multiple opportunities for engagement to ensure the active participation of small-scale fishing communities in coastal and marine resource governance and conservation as well as broader governance processes related to marine and coastal spaces and resources. As this is a broadly neglected area, it is vital that NHRIs are proactive and take the initiative to interpret the scope of their mandates for involvement in coastal and marine resource governance processes.

## Monitoring and reporting the human rights situation

NHRIs can consider visiting the territories small-scale fishing communities impacted by marine and coastal laws, policies, plans and other measures and frameworks to assess the compliance of those policies with human rights. They can engage directly with the communities and learn from their experiences. Based on this, they can conduct research to highlight critical or lesser-known human rights risks associated with coastal and marine resource governance, either independently or in collaboration with State actors, local CSOs or other organizations. NHRIs can also monitor the compliance of other actors in the territories with these policies, such as by tracking IUU fishing activities of commercial fishing vessels. Small-scale fishing communities can be actively engaged in monitoring and reporting efforts.

The information gathered by NHRIs through visits to sites and communities, stakeholder dialogues as well as compliance monitoring can then actively feed into reports prepared by NHRIs to their governments, parliaments, and regional and international human rights mechanisms.

## Providing advice to public authorities

NHRIs can review policies and legislation pertaining to coastal and marine resource governance with reference to regional and international human rights instruments and recommendations. They can report non-compliance to regional and international human rights mechanisms if necessary. They can also map which instruments their government has or has not ratified, and advocate for ratification accordingly. NHRIs can advocate for the active participation of small-scale fishing communities in the process of designing, implementing and updating the regulatory framework by strategically advising their governments on how to integrate an HRBA into marine and coastal laws, policies, plans and other measures and frameworks. Furthermore, where non-compliance or an oversight in policy is identified, such as a lack of consultation with small-scale fishing communities during development, they can use their mandate to make recommendations to the government. Recommendations can also be based on issues raised during public consultation processes. To ensure compliance with the recommendations, NHRIs can:

- Organize consultations with stakeholders for the monitoring and implementation of the recommendations;
- Organize awareness-raising workshops on the monitoring and implementation of all the recommendations;

- Engage with the government to ensure the implementation of the recommendations and commitments;
- Prepare reports based on the recommendations made to the State; and
- Work with and support the engagement of civil society organizations in international reporting.

## Receiving, investigating and responding to human rights complaints

NHRIs can investigate human rights issues, and the quasi-judicial mandate of some NHRIs allows them to receive and respond to human rights complaints. Thereby, they can address human rights concerns related to coastal and marine resource governance more directly. When receiving and handling complaints from rights-holders, NHRIs can pay special attention to those both directly and indirectly related to small-scale fishing and marine and coastal resource governance, such as cases where Indigenous Peoples and small-scale fishing communities have been prevented from fishing on traditional fishing grounds due to MPAs, or cases where conservation policies have been implemented without the consent of the communities. They can then investigate these cases and refer their findings with recommendations to the relevant authorities.

Some NHRIs can also undertake research and targeted investigations of human rights violations on their own initiative without first receiving a formal complaint. Depending on their mandate, some NHRIs may also be able to open a formal investigation if necessary, including public hearings and inquiries. In addition to looking for patterns among the complaints submitted, NHRIs can also examine whether there are rights-holders, such as those from specific small-scale fishing communities or marginalized groups, that rarely or never submit complaints, and consider the possibility that these individuals are either prevented from submitting complaints or are unaware of their rights. In these cases, NHRIs should seek to identify why they are not reaching these rights-holders and revise their strategy accordingly, such as by conducting new awareness-raising activities.

## Delivering human rights education programmes

NHRIs can lead awareness-raising, education and training programmes on human rights including informal education and community engagement and education programmes for relevant stakeholders, including small-scale fishing communities, local CSOs, conservation organizations, and government agencies, on the right to participation in the context of coastal and marine resource governance processes. Through awareness-raising and tailored training programmes, small-scale fishing communities, CSOs, and representatives can be informed about their rights, and which organizations and institutions can do what for them in terms of knowledge-sharing, reporting, and remedy. Meanwhile, conservation organizations and government agencies can be capacitated on applying an HRBA to coastal and marine resource governance and conservation, with an emphasis on participation and co-management. Structured curricular and learning materials on the intersection between coastal and marine resource governance and human rights can be developed with the active participation of rights-holder CSOs. NHRIs can also do inhouse training and capacity building on coastal and marine resource governance and conservation for staff, as this may be a new area of work. All education, training, and awareness-raising initiatives should be grounded in non-discrimination and equality principles, with special attention paid to the rights and inclusion of women and other marginalized groups.

## Cooperating at the national level with key partners

NHRIs can cooperate with national actors on the integration of an HRBA to marine and coastal resource governance processes. Due to increased sharing of information and strengthened relationships among actors, these alliances can support NHRI efforts to work on their mandate areas, specifically advocacy for reforms of legal frameworks, the monitoring of the human rights situation, investigations into allegations, and human rights education.

The following contains a non-exhaustive list of actors that can be considered for this cooperation:

- Ministry of (Agriculture and) Fisheries;
- Ministry of Water Resources;
- Ministry of Rural Development;
- Ministry of Environment;
- CSOs working with small-scale fishing and coastal communities;
- Rights-holder organizations such as fishers' unions representative community groups
- UN country teams, including OHCHR and the UN Development Programme;
- Community-based groups;
- Beach management units and other local governance structures;
- Marine institutes;
- Academia and research institutions (e.g. universities); and
- Environmental think tanks and organizations.

## Engaging with the international and regional human rights systems

NHRIs can support the work of international and regional human rights mechanisms by providing independent and reliable information and analysis on human rights issues in marine and coastal resource governance. Relevant international mechanisms include, but are not limited to:

- The UN Human Rights Committee;
- The UN Committee on Economic, Social and Cultural Rights;
- The UN Committee on the Elimination of Racial Discrimination;
- The UN Committee on the Elimination of All Forms of Discrimination against Women;
- The Universal Periodic Review;
- The UN Special Rapporteur on the human right to a clean, healthy and sustainable environment;
- The UN Special Rapporteur on human rights and climate change; and
- The UN Special Rapporteur on the right to food.

Based on the provision of information and analysis by NHRIs, treaty bodies often formulate recommendations on specific situations, such as access of small-scale fishing communities to water resources, and Special Rapporteurs publish specific thematic reports on issues such as the recent report on human rights and the ocean. Overall, due to a persistent data gap on the human rights situation of small-scale fishing communities, recommendations by treaty bodies on the issue remain limited, and it is crucial that NHRIs address this data gap by providing information to international and regional mechanisms, in particular by actively engaging with Special Rapporteurs when they undertake consultations for thematic reports.

NHRIs can also promote and monitor the implementation of relevant recommendations made to States by these monitoring mechanisms and assist their government to follow up on recommendations from the international human rights system on the human rights situation of small-scale fishing communities.

## Examples of good practices

Ways in which NHRIs are already using their mandates to ensure that coastal and marine resource governance and conservation is participatory and inclusive of small-scale fishing communities were highlighted during the peer-learning event. For example, the NHRI of Madagascar, Commission Nationale Indépendante des Droits de l'Homme (CNIDH), has used its mandate to ensure the active participation of small-scale fishing communities in the creation of environmental reserves to conserve threatened mangrove forests. Using its mandate to convene relevant stakeholders, CNIDH worked with the Ministries of Environment, Fishing, and Tourism to create viable alternative livelihoods for the communities in the tourism and agriculture sectors. CNIDH is also actively collaborating with small-scale fishing communities and CSOs to monitor and report IUU fishing by international commercial fishing vessels in coastal areas and have identified 70 vessels so far through this collaboration and reported them to the relevant authorities. Using its mandate, CNIDH advocates for the meaningful participation of small-scale fishing communities in the design of national conservation policy and ensures that they are actively included in implementation through monitoring activities.

Similarly, the NHRI of The Gambia, National Human Rights Commission Gambia (NHRCG), has used its mandate to monitor compliance with conservation policies in the coastal areas that small-scale fishing communities are reliant on[24]. In response to complaints from communities, NHRCG investigated the illegal activities of fishmeal factories along the coast, including overfishing and the dumping of toxic waste. They then made recommendations to the State based on their investigation, resulting in the temporary closure of some factories with their continued operations conditional on compliance with environmental regulations[25]. In this case, NHRCG used their complaints handling mechanism and investigative and advisory mandates to ensure that the voices of small-scale fishing communities were heard, and their monitoring activities were recognized in the context of conservation policy.

It was further emphasized during the peer-learning event that NHRIs can use their unique position to convene and collaborate with actors from government, civil society, and the conservation sector. For example, it was highlighted that WWF and the NHRI of Kenya, the Kenya National Commission on Human Rights (KNCHR), have been collaborating since 2024 to promote an HRBA to environmental conservation through research, capacity building, community outreach, strengthening alternative dispute resolution mechanisms, and public awareness and education. In the context of coastal conservation, WWF works with KNCHR for monitoring and surveillance. Small-scale fishing CSOs also expressed an interest in working more directly with NHRIs, in particular to produce data-driven reports that would inform policymakers of local realities. NHRIs can use their position to bring together and collaborate with relevant stakeholders, facilitating dialogue and cooperation.

# 6. Concluding remarks

As coastal and marine resource governance and conservation becomes increasingly important in the face of climate change, it is important to remember that small-scale fishing communities are not just stakeholders, but rights-holders who must be actively consulted and engaged in decision-making processes that affect them. Guaranteeing the right to participation of small-scale fishing communities will ensure the fulfillment of other rights in turn, such as the rights to work, food, and culture, while simultaneously increasing the impact and sustainability of conservation initiatives. NHRIs can play a critical role in facilitating this, using their unique mandate to promote the broad application of an HRBA and advocate for the meaningful participation of small-scale fishing communities in policies and initiatives related to coastal and marine resource governance and conservation. There are multiple ways for NHRIs to engage, including through investigation and complaints handling, monitoring, review of national policies, and awareness-raising. During the peer-learning event, several African NHRIs provided strong examples of how they have already intervened in their national contexts using their mandates.

Drawing from experience on the ground, participants acknowledged the potentially harmful impacts of non-participatory policies related to coastal and marine resource governance and conservation on small-scale fishing and highlighted ways to mitigate this, such as through viable and participatory alternative livelihoods initiatives. Members of small-scale fishing CSOs emphasized that NHRIs need to be proactive instead of reactive in this regard and stay informed on domestic, regional, and international conservation and biodiversity policies, understanding the human rights implications of these policies and contributing to relevant discussions where possible. It was also generally highlighted that NHRIs should collaborate with other organizations as much as possible, especially where they lack capacity or a strong mandate. For example, they can partner with local small-scale fishing CSOs or conservation organizations to monitor, produce materials, and engage stakeholders. Even in the absence of a strong mandate, NHRIs are uniquely positioned to act as both a convener of relevant actors and a bridge between government and civil society.

Another point highlighted in the peer-learning event was the need to consider small-scale fishing communities as rights-holders in the context of coastal and marine resource governance and conservation. Firstly, it is crucial to make participation not just meaningful but accessible and viable for small-scale fishing communities. This means holding meetings and consultations in their territory so they do not have to travel, which can produce a power imbalance as well as creating economic barriers to participation. Participation should also be planned in consideration of work schedules in recognition of the fact that many small-scale fishing communities will lose a day of work to attend. Secondly, NHRIs and other conservation organizations should localize their approach, adapting to local contexts and challenges and respecting local governance structures. In this regard, it is crucial to ensure that the principle of non-discrimination and equality is upheld without inciting backlash and putting women and other marginalized groups at risk.

Nearly all the participants highlighted specific gendered challenges faced by women and girls in their contexts. As such, it was generally emphasized that meaningful participation

needs to account for the unique gendered barriers faced by women in different cultures and communities. This further highlights that it is important not to generalize small-scale fishing communities, as even within communities they may have access to different resources and face different challenges.

Overall, meaningful and inclusive participation of small-scale fishing communities in coastal and marine resource governance and conservation is crucial not only from a human rights perspective, but also from an environmental perspective. By facilitating it, NHRIs can make a vital contribution to the respect, protection, and fulfillment of human rights.

# 7. Annex 1: Agenda

**Day 1**

| Activity |
| --- |
| **Session 1:** Human rights in small-scale fisheries:<br>The role of National Human Rights Institutions<br><br>*Format: DIHR presentation followed by Q&A and discussion in plenary* |
| **Session 2:** Group work - case studies<br><br>*Format: Workstation discussions* |
| **Session 3:** Conservation Initiatives in Africa<br><br>*Format: Presentation by WWF followed by Q&A and discussion in plenary* |
| **Session 4:** Exchange of experiences: The work of NHRIs with human rights and fisheries in Africa<br><br>*Format: Panel session composed of the NHRIs of the Gambia, Tanzania, Sierra Leone and Madagascar followed by Q&A and discussion in plenary* |
| **Session 5:** Integrating a Human Rights Based Approach to Small Scale Fisheries in Liberia<br><br>*Format: Presentation by Conservation International followed by Q&A and discussion in plenary* |
| **Session 6:** Group work – case studies (continued)<br><br>*Format: Workstation discussions* |

**Day 2**

| Session |
| --- |
| **Session 7:** Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries and other relevant instruments<br><br>*Format: Presentation by FAO Kenya and Tanzania followed by Q&A and discussion in plenary* |
| **Session 8:** A human rights-based approach acknowledging Indigenous Peoples, local communities, poverty and gender considerations in Marine Spatial Planning (MSP)<br><br>*Format: Presentation by UNESCO-IOC followed by Q&A and discussion in plenary* |
| **Session 9:** Group work – case studies (continued)<br><br>*Format: Workstation discussions* |
| **Session 11:** Fisher communities panel<br><br>*Format: Panel discussion composed of EARFISH, AFRISH-NET and AWFishNET followed by Q&A and discussion in plenary* |
| **Session 12:** Group work – case study presentations<br><br>*Format: Sharing of highlights in plenary* |

# 8. Annex 2: Participants

**Experts:**

- **AFRISH-NET**: Namadoa Okelo
- **AWFishNET**: Karen Mwangi and Manthura Sheikh
- **Conservation International**: Peace Amoah-Quiminee, Gender and Safeguards Manager
- **EARFISH**: Gabriel Musawli
- **FAO Kenya**: Susan Ungadi, Fisheries Expert and National Project Coordinator of the SWIOFC-NC Partnership Project
- **FAO Tanzania**: Hashim Muumin, Fisheries and Aquaculture value chains expert at the FISH4ACP project
- **UNESCO-IOC**: John Ngatia, Programme Associate, IOC Sub Commission for Africa & the Adjacent Island States (IOCAFRICA) Secretariat
- **WWF**: Asma Awadh, Manager of WWF Kenya's Coastal Programmes

**NHRIs:**

- **Cameroon - Cameroon Human Rights Commission (CHRC)**: Philippe Amanye Botiba, Head of Litoral Branch
- **Gambia - National Human Rights Commission Gambia (NHRCG)**: Basiru Bah, Senior Legal Officer
- **Ghana - Commission on Human Rights and Administrative Justice (CHRAJ)**: Jonathan Aduse Poku, Investigator Human Rights Department
- **Kenya - Kenya National Commission on Human Rights (KNCHR)**: Martin Pepela
- **Madagascar** - Commission Nationale Indépendante des Droits de l'Homme (CNIDH) - Seth Andriamarohasina, Chairperson
- **Namibia - Ombudsman Office Namibia**: Hermina Apollud, Chief Complaint Investigator Erongo Regional Office
- **Nigeria - Nigeria Human Rights Commission (NHRC)**: Faith Goodluck Okpara, NHRC Zonal Office Port Harcourt
- **Sierra Leone - Human Rights Commission Sierra Leone (HRCSL)**: Abu Bakarr Kamara, Director of Climate Change and Information Service
- **South Africa - South Africa Human Rights Commission (SAHRC)**: Aseza Arthur Gugubele, Commissioner
- **Tanzania - Commission for Human Rights and Good Governance (CHRAGG)**: Jovina Jovita Mchunguzi, Principal Investigation Officer

# Endnotes


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