Human Rights Aspects of Legislation in the Fisheries Sector

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Introduction

The purpose of this essay is to explore how human rights issues relate to national legislation in the fisheries sector. There are two principal aspects. First, we need to identify those human rights issues which you would expect to find covered in fisheries legislation, usually because they are required by international law, in particular, the 1982 United Nations Convention on the Law of the Sea (LOS Convention),1 or the 1995 United Nations Fish Stocks Agreement,2 or the FAO Compliance Agreement.3 Second, we need to indicate what other human rights issues underlie fisheries legislation. In some countries, these are specifically dealt with in the fisheries law, in others, they are not. There is no dominating reason why these might or might not be included in the fisheries law, in fact, the answer will depend on the particular legal system.

A number of related questions will also be explored. For example, what do we mean by human rights; which human rights impact on the fisheries

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3 Its full title is the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, 1993, approved by the FAO Conference at its twenty seventh session in November 1993.
sector; what is the role of ethical considerations in considering the subject; and what is the role of administrative law in protecting human rights. While the subject of human rights is widely explored in both national law and international law, there has been little attention paid to its specific application to fisheries. This contribution seeks to fill this gap in the area of legislation in the fisheries sector.

What Do We Mean by “Human Rights”? An underlying question is: what do we mean by human rights? In this contribution it will be taken to refer to rights found in such standard international instruments as the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Universal Declaration on Human Rights. There are also certain International Labour Organization (ILO) conventions that apply to the fisheries sector, either specifically or as part of a more general application, which can be broadly described as involving human rights. Likewise, certain aspects of the work of the International Maritime Organization (IMO) relating to rights of seafarers can be characterized as having a human rights dimension.

The discussion of what are human rights has another dimension which cuts across much of which has already been said, namely, the ethical dimension to fisheries. This is emerging as an important point of discussion principally in the FAO context and will be dealt with here, at least in an introductory way. Therefore this essay adopts a practical or functional approach to what is meant by human rights as opposed to a theoretical or conceptual definition.

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