

**UN Human Rights Council: “Freedom of Opinion and Expression and Sustainable Development – Why Voice Matters”**

**Input for the report on FOE and sustainable development (Word limit: 2,500 words)**

## **No sustainable fisheries without public access to information**

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Marine fisheries are a critical resource that fulfil the economic, food security and nutrition needs of millions of people around the world. For millennia those who dedicated themselves to fishing for family consumption, recreational interest or as a commercial activity had no cause to worry about the sustainable management of this natural resource. Fish stocks replenished themselves with ease. That is no longer the case.

In its latest report, *The State of World Fisheries and Aquaculture 2022*, the Food and Agriculture Organization of the United Nations (FAO),<sup>1</sup> warns that more than 35 per cent of global fish stocks are already being fished at biologically unsustainable levels. This number has tripled in the last 40 years.

Along with climate change and pollution, overfishing is one of the main threats to our ocean. Within overfishing, several factors are accelerating the decline of our fishery resources, such as the overcapitalization of the fishing industry<sup>2</sup>, harmful fisheries subsidies, the disregard of scientific advice on fishing limits or illegal activities. Another factor is the increased demand for seafood, not only driven by a growing global population, but also due to changes in consumer preferences that value seafood as highly nutritious and as having a smaller carbon footprint compared to other animal proteins.

The need to manage our marine resources sustainably – balancing economic, social and environmental aspects – is urgent.

### **Lack of access to information despite demands and regulations**

Public availability of credible information is paramount to achieving sustainable fisheries. Without reliable information the capacity of national authorities to make decisions based on the best available data is diminished. So is the ability of non-governmental stakeholders to exercise effective oversight, demand accountability and engage in public dialogue. For example, access to stock assessments, catch, discard and fishing effort information is needed

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<sup>1</sup> FAO (2022) *‘The State of World Fisheries and Aquaculture 2022. Towards Blue Transformation’*, Rome: FAO.

<sup>2</sup> It has been estimated that the number of fishing vessels operating at sea has grown by 500 per cent since the 1960s. According to the FAO report, the total number of fishing vessels in 2020 was estimated at 4.1 million (albeit showing a declining trend of 10 per cent since 2015).

to identify if further fishing regulations are required or to assess whether the government is licensing too many fishing vessels.

The overarching importance of public access to government information is also emphasised in the UN Sustainable Development Goals (SDGs). SDG Target 16.10 calls on all states to adopt legislation or policies that guarantee the right to information, which is essential for the achievement of Goal 16, and for enabling the other SDGs.

The general case for transparency (and ultimately, accountability) is hard to disagree with – but despite this, it has not been a priority in fisheries. Unlike other natural resource sectors (such as oil, gas and mining), many governments are not disclosing even basic information on their fisheries sector, such as permits, fishing agreements, stock assessments, financial contributions, catch data and subsidies. Also, not all companies are reliably reporting on catch volumes, fishing practices and payments to governments. Furthermore, the data that is publicly available is too often incomplete, outdated, unverified or not readily accessible.

This lack of information does not necessarily stem from a lack of stakeholder demands or regulatory requirements. Many of the elements included in campaigns for transparency in the fisheries sector are already established in international agreements or policy papers on fisheries reforms,<sup>3</sup> such as FAO's landmark Code of Conduct on Responsible Fisheries<sup>4</sup> or its Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries.<sup>5</sup> Likewise, Freedom of Information laws regularly demand that the public should be able to obtain environmental information (including on the country's fisheries sector) with only limited, explicitly defined exceptions arising from confidentiality claims and security matters.

A lack of transparency in fisheries management is not always deliberate. What may be perceived as opacity or secretive practices is often the result of other factors, such as the complexity of the fisheries sector, a lack of technology, expertise and staff, or legal concerns. Also, if no demand or interest is shown in a particular field of information, governments under pressure to balance competing issues may give priority to other areas. Of course, these arguments can also be a convenient excuse to avoid public scrutiny and restrict public access to data on how national authorities are managing common resources such as fish on behalf of its citizens.

### **Globalisation of standards through “voluntarism”**

Fortunately, inspiring progress has been achieved in fisheries transparency through voluntary commitments from countries. For example, the governments of Mauritania and Seychelles have started to implement the transparency requirements of the Fisheries Transparency

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<sup>3</sup> This includes legally binding treaties as well as a range of documents that can be referred to as “soft laws”: agreements, principles and declarations that are not legally binding.

<sup>4</sup> FAO (n.d.) ‘Code of Conduct for Responsible Fisheries’, <http://www.fao.org/3/v9878e/v9878e00.htm>

<sup>5</sup> FAO (2015) ‘Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication’, Rome: FAO <https://www.fao.org/documents/card/en/c/l4356EN>

Initiative (FiTI) – a global voluntary multi-stakeholder initiative<sup>6</sup> – and have recently made a range of previously unpublished information publicly available for the very first time. This included fishing access agreements signed with foreign entities, data on the status of fish stocks, information on various types of fisheries subsidies and detailed information on vessels authorised to fish in their jurisdictional waters. As part of this commitment, both countries are now publishing annually key information on their fisheries sectors online, and acknowledge where data gaps still exist. Other countries, such as Madagascar, Ecuador and Cabo Verde, are following these leads and are expected to provide similar information to the public soon.

Of course, voluntary initiatives like the FiTI should not be seen as a replacement for traditional government-directed “command-and-control” regulations. Instead, and despite being regularly discredited as “toothless”, such voluntary endeavours can complement existing regulations or even fill gaps. A core aspect that voluntary initiatives can play in advancing the rights to information is globalising standards and mobilising governments (or businesses) towards improved performance.<sup>7</sup> FAO’s Code of Conduct on Responsible Fisheries was urging governments almost 30 years ago to act transparently on fisheries, and similar mechanisms have since reiterated this. Yet, while these texts provide some specific requests for governments to follow, transparency has often been discussed in a fairly general way. This has left much open to debate as to exactly what information ought to be made public, by whom, why and how. Addressing these shortcomings was a key motivator in establishing the FiTI Standard<sup>8</sup> – a global and now commonly accepted framework for transparency in marine fisheries management, defining clearly what information should be published online by national authorities. The FiTI Standard was developed over two years – from 2015 to 2017 – with inputs from several governments, industrial fishing companies, small-scale fishing associations, civil society organisations and intergovernmental organisations. It covers 12 areas of fisheries management, and its transboundary application can hold all governments accountable to the same global standard.

This much-needed clarity of what is expected from governments regarding transparency has clearly contributed to fisheries finally catching on to the global “transparency wave”.

### **Trustworthy information through collective action**

Commonly, transparency is equated to visibility – whether certain types of data are in the public domain like a government website. While having unrestricted access to government information is a good start, another (often overlooked) dimension is the extent to which this information is perceived as credible. Unfortunately, levels of institutional trust – although

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<sup>6</sup> Fisheries Transparency Initiative (n.d.) Homepage, <https://www.fiti.global>

<sup>7</sup> Braithwaite, J. and Drahos, P. (2000) *Global Business Regulation*, Cambridge, UK: Cambridge University Press.

<sup>8</sup> Fisheries Transparency Initiative (2017) *About the FiTI Standard*, <https://www.fiti.global/fiti-standard>

varying across countries – are generally low and have been declining over decades.<sup>9</sup> This lack of trust affects also the information that is published by national authorities, which is regularly met with scepticism or even mistrust by relevant stakeholders such as civil society organisations, media, business partners and investors. The quest for increasing public access to information and for that information to be trustworthy must therefore go hand-in-hand. However, a single actor, such as a government, is unlikely to achieve these twin goals alone – just as a technology-based solution cannot on its own instil a sense of credibility among data users.

What is needed instead is a collective effort by all those with a *stake* in achieving the objective of sustainable fisheries. Involving a variety of stakeholders with different perspectives, expectations and, most importantly, an inherent interest in improvement is a prerequisite to enhance the credibility (and ultimately, the legitimacy) of information.

The FiTI is requiring countries to enhance access to information through National Multi-Stakeholder Groups, consisting of representatives from government, business and organised civil society. These groups work collectively to assess whether information in the public domain is accessible, complete and credible. These groups also make recommendations to national authorities on how to improve the availability and usability of information over time.

Such “antagonistic cooperations” require a considerable amount of support, institutionalisation, time as well as conducive social and political factors.<sup>10</sup> But a genuine collaboration of stakeholders has the potential to build trust – not only in the objectives pursued, but also among themselves – to foster ownership, and to initiate far-reaching systemic change.

### **“Customer-centric” approach to information provision**

National authorities often struggle to ensure that fishing and fish trade contribute to income, employment, food and nutrition, while also conserving marine biodiversity for present and future generations. Achieving sustainable fisheries is a complex endeavour, and so is the information that is published about it, such as scientific stock assessments, catch data or tenure arrangements. Unfortunately, fisheries information is typically provided only in technical formats, such as lengthy scientific reports or statistical data sheets. While this is beneficial for those users with more experience in fisheries seeking to delve into large, disaggregated datasets for in-depth analysis, it also restricts the possibility for laypersons to interpret, assess and understand such material. This complexity inhibits the effectiveness of freedom of information reforms – but enables those releasing the information to claim that they are being transparent. The problems can be aggravated by “data dumping”, when an enormous amount of documents or statistics are provided without clear structures or search

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<sup>9</sup> See for example, UN Department of Economic and Social Affairs Social Inclusion (2021) *Trust in public institutions: Trends and implications for economic security*, Policy Brief #108

<sup>10</sup> See for example, Partnerships 2030 (2017) *Multi-Stakeholder Partnerships in the context of Agenda 2030 – A practice-based analysis of potential benefits, challenges and success factors*

possibilities. Transparency endeavours therefore must seek to increase the comprehensibility and usability of information, as well as its availability and credibility.

For the fisheries sector, the FiTI is requiring countries not only to publish information but also to provide aggregated “big picture” indicators and succinct summaries to contribute to public understanding. For example, fisheries regulations – defining how fishing rights are accessed, used and managed – are typically hard to understand. As part of its FiTI implementation process, the Government of Seychelles has published a summary of its fisheries regulations in an intuitive FAQ format. It breaks down legalistic texts into easy-to-understand questions and answers, such as whether a licence is needed to fish or about the obligations to report catches.

Involving the targeted end-users directly in the process of publishing information creates a “customer-centric” way of providing information. It also demonstrates the relevance and value of adopting a collective, multi-stakeholder approach to increasing transparency.

### **Strengthening the accountability ecosystem**

The global movement for transparency and open government data has been justified for many reasons. It is seen as fundamental to modern ideas of democratic governance, enabling efficient functioning of markets, public service delivery and citizen engagement. As a cross-cutting theme, it is also often seen as synonymous with countering corruption.

In marine fisheries, corruption has so far been surprisingly overlooked, with only a few cases of corruption in the sector hitting the headlines in recent years. Yet, consider the increasingly competitive nature of fishing, the value of the sector,<sup>11</sup> complex value chains spanning multiple countries and legal jurisdictions, often weak or inadequate control structures – these elements combined paint a convincing picture of a sector that is highly exposed to corruption. The almost automatic reaction is to call for transparency to prevent or deter corruption – despite extensive research showing differing views about its effectiveness in doing so.<sup>12</sup> There is consensus however that transparency alone will not “magically” lead to positive change – nor will access to information necessarily produce incriminating evidence for an illegal act, the so-called “smoking gun”. Instead, there is a growing appreciation that the real power of transparency to fight corruption is indirect – by helping to change political debates about how governments function and how a country’s policy, legal and institutional environment enables accountability.<sup>13</sup> Aligning transparency efforts to support more fundamental debates on

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<sup>11</sup> The value of fish traded internationally is greater than that of many other food products, such as coffee, tea and sugar, combined.

<sup>12</sup> See for example, Etter, L. (2014) ‘Can transparency reduce corruption? Evidence from firms in Peru and Mali on the impact of the Extractive Industries Transparency Initiative (EITI) on corruption’, paper prepared for ‘Doing Business’ Conference at Georgetown University, Washington, DC; or Lopez, S. (2017) ‘Does transparency promote less corruption? Evidence from around the world’, University of West Georgia.

<sup>13</sup> Johnston, M. (2018) ‘Reforming reform: Revising the anticorruption playbook’, *Daedalus* 147(3): 50–62.

accountability ecosystems<sup>14</sup> may be more beneficial than establishing reforms with the sole focus of fighting and (in particular) exposing corruption.

FiTI implementing countries are therefore regularly assessed on whether information is continuously provided in the public domain *and* on whether there is an enabling environment for stakeholder participation. This involves considering whether businesses and civil society organisations can express opinions without restraint, coercion or reprisal, and gauging the willingness of decision-makers to listen to the ideas and concerns of stakeholders on how access to information and public participation can be strengthened. Furthermore, Seychelles, Senegal and recently Ecuador have embedded their sectoral commitment to enhance fisheries transparency into their country-wide National Action Plans to the Open Government Partnership.

Several years ago, transparency was still something of an aspirational concept. It is now becoming increasingly mainstream in marine fisheries. Voluntary multi-stakeholder initiatives, such as the FiTI, are translating stakeholders' expectations and demands into concrete actions by enhancing the accessibility, credibility and comprehensibility of government information in the public domain. Making fisheries management more transparent and inclusive is a prerequisite to supporting national economies and the well-being of citizens and businesses that depend on a healthy marine environment.

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<sup>14</sup> Accountability ecosystems include diverse actors, institutions, processes and contextual features that shape government responsiveness and accountability. Halloran, B. (2015) *'From openness to real accountability: The Role of MSIs'*, Think Piece, Transparency and Accountability Initiative.