

## Human rights law in coastal fisheries and aquaculture in the Pacific

*The Pacific Community (SPC) has produced a comparative analysis of national legislation on gender and human rights requirements in coastal fisheries and aquaculture in six countries: Fiji, Kiribati, Samoa, Solomon Islands, Tonga and Vanuatu.<sup>1</sup> The analysis highlights the opportunities for the governments of Pacific Island countries and territories to implement human rights principles in coastal fisheries and aquaculture legislation, and to identify existing barriers to their effective implementation. The key findings of the study have been summarised in a Policy Brief that is available in English and French.<sup>2</sup>*

*The conclusions and recommendations of the analysis incorporate feedback provided by national participants and partners during SPC's Regional Workshop on Gender, Social Inclusion and Human Rights in Coastal Fisheries and Aquaculture in July 2020. This virtual event was an occasion for participants to gain an enhanced understanding of gender and human rights issues in order to improve mainstreaming into national policies, laws and actions. As a result, a similar analysis is currently being conducted by SPC for the Federated States of Micronesia, Marshall Islands and Palau.*

### Key finding and challenges

Coastal fisheries are vital to Pacific Island communities, providing both food and livelihoods. Like other economic sectors, coastal fisheries face several challenges in the protection the human rights. This study analyses the progress made by six Pacific Island countries in protecting the human rights of small-scale coastal fishers and fish workers, and highlights opportunities to improve domestic legislation.

Under human rights law, governments must ensure the right to a safe and healthy environment by promoting the sustainable management of natural resources, as well as the right to participation in public affairs, without discrimination. They

should also guarantee access to markets, as well as safe work and social security for coastal fishers and fish workers who are typically self-employed or operating in the informal sector. Government should increase sea safety training and develop comprehensive policies and legislation underpinned by the constitutional recognition of people's rights at work.

Community-based fisheries management systems help to ensure local communities' access to coastal marine resources, facilitate public participation in resource management, and promote sustainable fishing. However, some human rights challenges persist in certain customary practices. In some cases, such practices may exclude or sideline women and other vulnerable groups from land tenure arrange-



<sup>1</sup> See: Graham A. and D'Andrea A. 2021. Gender and human rights in coastal fisheries and aquaculture. A comparative analysis of legislation in Fiji, Kiribati, Samoa, Solomon Islands, Tonga and Vanuatu. Noumea, New Caledonia: Pacific Community, 108 p. Available at: <http://purl.org/spc/digilib/doc/zz6mn>

<sup>2</sup> See: Graham A. and D'Andrea A. 2021. Gender and human rights in coastal fisheries and aquaculture law – SPC Policy Brief #36. Noumea, New Caledonia: Pacific Community, 4 p. Available at: <http://purl.org/spc/digilib/doc/z9dso>

ments or from participation in local resource management. In other cases, families that are banned from a community are deprived of their livelihoods and, therefore, denied their right to food.

On the positive side, laws and court decisions within Pacific Island countries are increasingly recognising that custom is bound by certain fundamental rules, such as the principle of non-discrimination, which are constitutionally protected. Expanding constitutions to recognise the right to food would further allow individuals and communities to legally challenge any practice that denied them this right. International human rights law thus provides guidance to governments on how to proceed without undermining indigenous peoples' rights to marine resources and local conservation efforts.

## Recommended priority actions

Achieving sustainable development for both men and women working in the coastal fisheries sector will require Pacific Island countries and territories to review their laws, policies

and programmes to ensure they respect and protect economic, social and cultural rights, and do not jeopardise the rights of local communities that depend on coastal marine resources for their livelihood. Training should be provided to judiciary, civil society and customary institutions in order to raise awareness of human rights and social inclusion issues. To ensure that human rights are effectively recognised and put into practice, Pacific Island governments are encouraged to monitor the implementation of human rights law for small-scale coastal fishers and fish workers through existing national mechanisms.

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Suva market, Fiji. (Image Ariella D'Andrea ©SPC)

