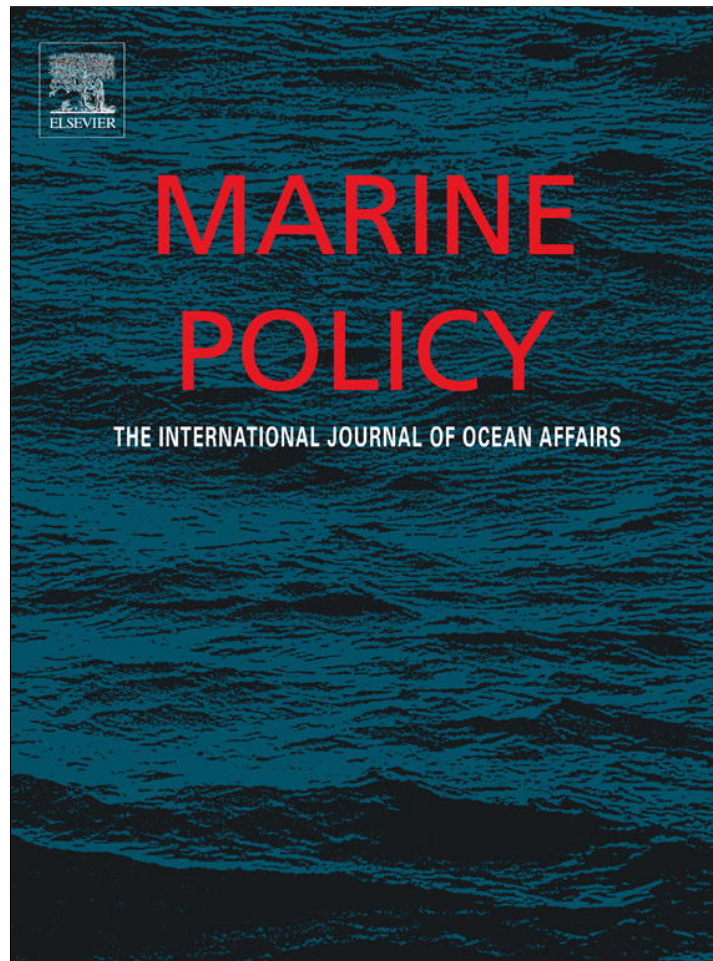


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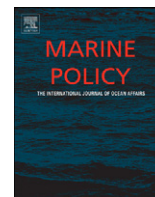
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## Human rights and neo-liberalism in small-scale fisheries: Conjoined priorities and processes

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### ABSTRACT

Recent advocacy of human rights approaches (HRA) for the governance of small-scale fisheries (SSF) in developing countries overlooks evidence that HRA facilitates a neo-liberal agenda. Further, this advocacy is seemingly uninformed by serious consideration of the extensive human rights literature. As a result, the essential relationship of human rights to neo-liberal philosophy and processes, as well as nation/state icons and institutional practices, remains hidden. Neither is it demonstrated that “development” was redefined within the neo-liberal context of the property-holding individual functioning efficiently within a market-imposed discipline, nor that this has been protected since the 1980s by having co-opted HRA. Paradoxically, the likely result of an HRA as promoted is a disruption of the very collective community cultural, economic and social values that provide the realistic ethical, moral and practical basis for implementing an effective and meaningful HRA. This essay examines and demonstrates how the HRA advances the cause of neo-liberal penetration into communities within the context of Western development practice and philosophy, its basis in neo-classical economics, and its congruence with neo-liberalism. The role of collective communal values is examined as an alternative for securing human rights.

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### 1. Introduction

Recent advocacy promotes the embedding of small-scale fishery (SSF) governance in developing countries within a human rights approach (HRA) [1–4]. It is asserted that such a broad perspective would make successful development and resource sustainability more likely than one based on just economic and closely related incentives, whereas a failure to address ethics and social justice via HRA would affect governance negatively. This advocacy emerges from the FAO's ethical approach that urges promotion of HRA for the governance of SSF [5,6], holding that ‘good practices’ require a ‘rights-based’ approach that links and secures fishery rights and human rights via access to a fair share of resources [7]. However, those assertions are neither evidence-based nor take account of determinant socio-economic and political factors that shape resource access and use [8].

A voluminous literature addresses seemingly every aspect of what human rights mean, the Western European Enlightenment era origins of the core notions, and their location within development and policy initiatives [9,10]. It ranges from studies of

philosophical-ethical dimensions and conceptual origins e.g., [9–12], through extensive empirical examinations of legal-political attributes and compliance e.g., [10,13,14], to the association of human rights with ‘development’ and ‘progress’ e.g., [15], including human rights approaches as integral to the neo-liberal belief that ‘freedom’ is another word for unfettered markets and the individually-referenced economic-social ‘benefits’ of market-imposed discipline e.g., [16–18].

The advocates for HRA in SSF are apparently either unfamiliar with much of this literature or have chosen to ignore it. This is evident from their rather cavalier dismissal of any need to explore and consider the difficulties and complexities in HRA that even a cursory familiarity reveals. For instance, in a recent article a principal advocate, Allison, shirks this task by stating “I am a student of the fisheries, not a moral philosopher or legal expert, and I do not attempt to assess the underlying moral and legal principles of human rights approaches; these are comprehensively explained elsewhere...” [1: 96]. Others, such as Charles, fail to even mention that legal and moral complexities attend adopting HRA [3,4]. Yet, addressing these difficulties and complexities is critical to assaying the sensibility and practicality of HRA advocacy within a SSF or any other setting. It is nothing less than irresponsible to advocate for HRA in SSF governance while excusing oneself from any serious consideration of its complexities and challenges.

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Perhaps a case could be made for broadening the conceptual base of governance, had the term not been debated by the World Bank in the 1980s, and later adopted by some bi-lateral agencies and the entire UN system [19]. Further, setting “governance” within the framework of HRA is perverse when its relationship with neo-liberal philosophy and practices is understood. In this essential but poorly examined issue is the relationship between HRA and the dominant ‘development’ paradigm. During the late-1980s and early-1990s, redefinition by UN agencies [20–22] and at UN conferences e.g., [23] of ‘development’ in terms of the individual and with an emphasis on human rights superficially appears to represent a radically changed paradigm compared with an earlier emphasis on economic growth [24], such that some even assumed then that a relationship between the HRA and development had been confirmed e.g., [25]. Specifically regarding SSF, this is the stance that leading advocates take [1,2], apparently believing that an HRA irreproachably supersedes all former paradigms, with its basis rooted firmly in human rights law e.g., [26].

That is not a unanimous opinion [9,27]. Rather, an alternative interpretation demonstrates that the relationship between human rights and development is predicated explicitly on development having been redefined defensively [28,29] within the pre-existing neo-liberal context of the individual [30], such that the neo-liberal paradigm of development has been protected by co-opting HRA to ensure consistency with the neo-liberal context, priorities and processes.

All this is rather convoluted, and explication requires that some basic terminology and the reasoning behind its usage be clarified. The terms “liberal” and “liberalism” are now imbued with multiple and seemingly conflicted meanings and principles, many far removed from their benign Middle English origins as something befitting a “free man”, hence “gentleman”. The principal usages refer, first, to a governance relationship between a State and its subjects, and second, to the support of individual liberty and private property. The distinguishing characteristics of a liberal form of governance are the free selection and pursuit of economic activities, inculcation of habits of self-regulation, and use of “the market” as a key indicator of appropriate levels of governance [31]. Further, the market is regarded as an “...instrument of civilisation, inculcating such virtues as prudence, diligence, punctuality, self-control...” [32: 26]. By extension, the line of reasoning that securing market and property rules while concomitantly reducing or eliminating non-market economic activities means that the rule of the market can be used as a basic instrument of development policy and management of natural resource extraction. The rule of the market is used to establish and legally secure property rules and rights, and to bind all transactions.

Thus it cannot be demonstrated convincingly that a convergence between human rights and development occurred, resulting in a new paradigm for development assistance cf. [26]. Rather, it is apparent that the relationship has been presented so as to refurbish and enable the neo-liberal agenda by disguising it within the elaborately embroidered language of human rights cf. [19,33,34].

The extensive literature on human rights includes research studies demonstrating that integral to the neo-liberal belief is the idea that ‘freedom’ in the minds and intentions of many is synonymous with unfettered markets and the individually-referenced economic and social ‘benefits’ of market-imposed discipline e.g., [16–18]. Thus the broader context advocated for HRA is already flawed by neo-liberal forces manifested in recent approaches to the development of SSF, and that undermine both marine harvesters and the purported intent of an HRA [8]. Minimally, the attributes and parameters of these relationships

and processes require careful consideration in HRA advocacy and the assessment of its sensibility and practicality.

In this essay several key attributes of the human rights and human rights approaches are examined, particularly as these intersect with notions of development and improving SSF peoples’ voice and conditions. The roots of human rights in Western moral philosophy and history are reviewed briefly to pinpoint their conceptual focus on the individual, and thus linked outcomes such as the congruence of HRA with neo-liberal priorities, the justified disregard for and dismantling of collective economic and social relationships, and the imposition of market-disciplined and individualized economic behavior and property rights. Considering the ethical and moral foundations of human rights, it is contended that a refocusing of HRA toward local alternatives based on collective community cultural and social mores offers more potential for meaningful impacts than the current advocacy of HRA within the context of contemporary neo-liberal policies and state/corporate institutions.

## 2. The theological roots of legal and moral attributes underlying neo-liberalism in HRA

A review of the basic legal and moral attributes inherent in HRA reveals its rootedness in Western moral philosophy and neo-liberalism. The Western concept of human rights is rooted in Judeo-Christian belief that a divinity created humans ‘in its image’, thereby defining them as exceptional and superior to other life, and thus able to “...fashion their lives through autonomous choices. That...is what marks humanity off from the rest of life.... Exemptionalism is a distinctively Christian doctrine” [35: 26,27]. From this emerges the presumption that sentient humans are endowed ‘naturally’ with basic inalienable rights or entitlements and, therefore are exceptional within the panoply of life. These ideas were gradually elaborated in Western Europe, from the Reformation through the periods of Enlightenment and Industrialization. Arguably, the core modern ideas of liberty and freedom originated in the freedom of religious consciousness, a central outcome of the Reformation, and that ‘freedom’ and ‘liberty’ evolved to specify the human individual as the ‘natural’ locus of fundamental and inalienable rights [36]. In that process these liberties, freedoms and rights became ‘secularized’; detached from their formal Judeo-Christian origins and recast as qualities inherent to each human being. It is important not to overlook “...that the secular realm is itself a Christian invention....the ultimate origin of the liberal attempt to separate religion from politics” [35: 41,42]. Gray contends that these elements now constitute a secular faith in which seemingly unfettered and endless progress and development are enabled through unleashing the creative potentials of human technical innovation, especially through the medium of science. That is interwoven with “[t]he belief that our way of life can be replicated.... It is an integral part in the faith in progress that has replaced religion in most of the advanced industrial societies, and the basis of development programs throughout the world” [35: 58].

Thus the Western context of HRA specifies that the individual human is the ‘natural’ moral and ethical locus of liberties, freedoms and rights. Among the many core concepts at work here, rights and freedoms are divined as inalienable in the human individual [9,37]; that society is comprised of self-interested individuals exercising their rights and freedoms in competitive relationships with one and another that, because of their potential for conflict, are mediated by the State; and that ownership of self (or self-possession) is the fundamental and requisite condition enabling each individual to pursue self-interested transactions, wherein

they alienate (i.e., commodify and sell) either their creative capacity to produce or the products of that capacity cf. [38].

### 3. The resultant disregard for community

Whereas core freedoms and rights are assumed as inalienable in every human, their exercise to satisfy the material conditions of life requires that each individual be positioned and able, as an outcome of having freedoms and rights, to alienate themselves, either through selling their capacity to labor, or its products. Elemental to this is the presumption that freedom, liberty and associated rights can be invested and realized only in the individual human. Once so invested, humans are at liberty to engage in the sort of atomized competition that would unleash the massive creative and wealth creation potentials previously locked up in social obligations and more cooperative ways of living. Such a radically new concept of the individual human and their social relationships was a requisite precursor for 'freeing' labor for engagement within European industrialization.

Arising from particular European social, political and economic processes, these concepts and understandings entirely disregard and discredit collectivized ways of living, worldviews and values, wherein meaning for and the sustainability of the individual human is understood in relationship to such matters as location within kinship and kith-defined groups and social contexts that support personal familiarity and connectivity. Arguably, the concepts of individualized freedoms and liberties as the basis for human rights are required and intended to disassemble and transform social modes of living, and their associated social relations and ways of satisfying the social and material requirements of life. Surely, in most human settings pre-existing notions of right, wrong, moral, and ethical constitute a basis for discerning indigenous, culturally-situated understandings of what it means to be human, and of what matters in and through social relations.

Those qualities lead directly to the linkage between human rights advocacy, particularly since the late-1940s, and the relentless worldwide imposition of neo-liberalism. Some contend that human rights propositions have not received enough critical and analytical reflection e.g., [16,17], since "... the rise of liberal ideas such as human rights [are tied] to the spread of neo-liberal capitalism" [17:32,39]. More specifically it is argued that "...rights converge with powers of social stratification and lines of social demarcation in ways that extend as often as attenuate these powers and lines" [17,40: 32]. Further, 'rights' within liberal political institutions "...embody various kinds of regulatory power and... are tied in a fundamental way to capitalist property relations" [17:32] [39:71]. The State, particularly through economic development and resource management policies and practices, is the main institutional means through which 'rights' are intertwined with existing economic interests and priorities. After all, in this context governance framed by 'the rule of law' generally means allowance for the expression of individual rights as embodied in private ownership of property and wealth.

It has been argued that the State, from its very earliest forms to its present nationalist and liberal iterations, has purposively sought to breakdown the social and psychological meaning of a society's immediate kinship and kith relationships, and to replace these with State-centered icons and institutions, be they religious beliefs and practices or nationalist attachments and sentiments. Loyalty to and engagement with the link from ancestors to descendants through self, particularly within local and community contexts, situates meaning for humans that is immediate, personal and about embeddedness within social relationships cf. [41]. Such a basis for primary loyalties directly challenges

State-based authority and compliance with its priorities. For instance, in many SSF, local notions governing access to and use of marine resources collide with nation-state resource management policies. The former attach access and use legitimacy to embeddedness within local social organization and relationships whereas the latter reference such broader priorities as national interests, resource conservation, class priorities, allocation management through individual allotments (e.g., licenses, quotas, etc.), and economic development cf. [42–44].

The contemporary nation-state, largely within the grasp of neo-liberal imperatives, is as far from a primary and unaligned champion of citizens' rights as can be imagined. Indeed, several recent studies unequivocally demonstrate that signing-on to various international human rights agreements often does not equate with compliance cf. [10,13–15]. Others highlight the connections between human rights advocacy and the ascendancy of neo-liberal priorities and socio-economic relations e.g., [16–18].

In contrast, advocates of HRA in SSF simply presume that the nation-state and its agents are the 'natural' and required means through which rights can be the lens to refocus fisheries governance and development. There is no representation let alone analysis of evidence for the capacity and inclination of the State within neo-liberalism to do anything of the sort. Unburdened by evidence and conceptual sophistication, it is impossible to determine what real world processes and outcomes these champions of HRA in SSF anticipate, other than promotion of blind faith through appeal to motherhood and apple pie values in the inclination and willingness of the State to do 'the right thing' vis-à-vis citizens and their empowerment. Assuming the advocates' positive intentions, such naiveté might appear cutely innocent were it not a major threat to the capacity of fishing peoples to employ their customary practices, values and understandings as the basis for self-empowerment, and for the self-determination necessary to have a meaningful impact on the social and economic conditions that matter to the quality and sustainability of their way of living. This threat is evident in the potential of the State to compel local adherence with neo-liberal conditions and priorities through employing human rights rhetoric to discredit customary practices and to separate the individual from her/his social context and relationships.

### 4. The assumed prerequisite of property rights

Some advocates of HRA for SSF simply assume that property-based entitlements are a requisite condition for the sustainable use of marine resources e.g., [3,4]. In turn this assumes the efficacy of the imperatives and presumptions that underwrite much of neo-liberal preferences for access to and use of marine resources; i.e., individually defined, commodified and saleable use privileges as, for example, represented by transferable quotas (e.g.), [45–47]. Typifying the neo-liberal perspective is the observation that assigned and clearly specified "[p]roperty rights in some form are necessary for co-management because without them there is no definition or assurance of legitimate participation or of the conditions that link user groups to each other and to the government" [48: 3].

Contrary to this, the well documented history and cultural and social characteristics of SSF establishes that acknowledging and buttressing the strengths of customary practices and understandings is the place to begin. Above all, SSF are expressions of social relationships and culture that form the real world basis for respecting, examining and advancing the human condition. For SSF-focused social research this demands 'speaking truth to power'; in other words analysis and exposure of the social, economic and political conditions that sustain and deepen the

exploitation and impoverishment of fishing peoples, and that deny them 'the right' of self-governance [8,42–44].

### 5. HRA within the context of Western development practice and philosophy

It is important to recall that the drafting of the UN "Universal Declaration on Human Rights" was strongly influenced by the USA [49], as it was deeply embedded in that nation's prevailing development philosophy and practice, particularly Point Four. "Point Four" was the name given to a project announced as a fourth point in President Truman's 1949 inaugural address. It was a USA government foreign aid project ostensibly to provide poor nations with material assistance, skills and knowledge, as well as to encourage private sector investment. Point Four was linked explicitly to the strategic and economic objectives of the USA. It licensed an unprecedented scale of intervention by the USA in other countries' affairs, particularly when structural adjustment was implemented three decades later, such that foreign economists almost took over the management of sovereign governments, and comprehensive development virtually became the solemn duty of developing countries' governments. Beginning with infrastructural projects as straightforward but ad hoc foreign aid, Point Four evolved via "import substitution" and "industrialization" into "structuralist theories" to overcome the colonial trade patterns that were identified as a cause of underdevelopment. In addition, Point Four fed some academic social sciences in the USA, which provided the theory to support the strategy [50].

Structural adjustment makes sense only when understood as part of a philosophy that puts market fundamentalism far ahead of the needs of people. Structural adjustment programs are the policies forced on developing countries by the IMF and the World Bank as conditions for either obtaining new loans or reduced interest rates on existing loans, in order to reduce a borrowing country's fiscal imbalances. The supposed idea was to reduce the role of government in the economies of developing countries and make them market oriented, thereby forcing countries to focus on trade and production activities that would boost the national economy [51]. Conditionality, also known as the "Washington Consensus", imposed to make sure that loans are used for the expressed goals are a further neo-liberal agenda item, since they can include austerity programs, a focus on resource extraction for direct export, privatization, and a scrapping of price controls and state subsidies. National sovereignty has been further curtailed by the enforcement of trade liberalization, relaxed rules regarding foreign direct investment and access to domestic stock markets [52,53].

The keystone of neo-liberalism, market fundamentalism, is based on the belief in the freedom of and the necessity for massive transnational corporations to trade, invest and move capital wherever they wish, with a minimum of interference from host nations and popular citizen resistance. Driven and structured by wealth accumulation and profit, such corporations have scant regard for social, environmental or local level and family economic consequences. Instead, extreme faith is placed in the particularly Anglo-American philosophy of the 'magic of the marketplace', money as the principal if not sole criterion of value, the 'cult of success', and the doctrine of *laissez-faire* capitalism that presumes the common good is best served by uninhibited self-interest. As consequence, local cultures are devalued, and the social relationships that formerly characterized families and communities are weakened, if not discredited and destroyed.

Around 1980, fundamentalist free-market governments in the United Kingdom and the USA implemented policies based on deregulation, balanced budgets, low inflation, privatization, government

directed by the market, and corporate global freedom. Notably and not coincidentally, the UN's Law of the Sea negotiation and agreement achieved fruition during this time. Deregulation of international financial markets was the keystone enabling financial institutions to expand international operations. The relaxed rules regarding financial capital enabled speculative investment that soon destabilized the global economy, as vividly illustrated by the 1997 collapse of the East Asian currencies and the 2008 collapse and global recession.

Although attempts in the early-1970s to create a New Economic Order failed, they did raise an awareness of "Basic Human Needs" concerning participatory development and the need to emphasize an HRA. As a result, a 'Basic Needs Assessment' was integrated within World Bank and IMF strategies [54,55]. However, that was less than a sideshow because during the 1980s development was dominated by the neo-liberal agenda of the World Bank and IMF. This was focused on "rolling back the State" and embracing the free market. The neo-liberal regime broke decisively with the State as the keystone of economic development, and economic reform as implemented as conditionalities attached to World Bank and IMF loans. The rationale offered was disarmingly simple: that their job was to create an "enabling environment" for economic growth, regardless of social impact [15]. However, the social impact was documented [56]. Nevertheless, implementation of structural adjustment gave it priority over human rights [57].

### 6. 'Good governance': Congruence with initiatives in the context of neo-liberalism

Seemingly inoffensive blandishments regarding the elimination of structural factors and the transformation of cultures and values attempt to disguise that imperial rule now operates through international financial institutions, the use of markets to regulate the behavior of nominally sovereign governments, and 'aid' conditionalities. Particularly forceful is the near universal promotion of 'good governance' that has now morphed into championed 'alternatives' such as an HRA.

'Good governance', together with the associated terms 'empowerment', 'popular participation', 'responsibility', and 'democracy', is currently among the concepts most promoted throughout the UN system and in some international development agencies by "[g]overnance specialists, indicators, programmes, and conferences [that] have multiplied like mushrooms after a rainy night" [19]. Ironically, and almost certainly unintentionally, while calling for transparency the World Bank's own statements are utterly lacking in dissemblance, as when it avers that "[by] helping to fight corruption, improve transparency, and accountability in governance... and modernize financial sectors, the Bank contributes to building environments in which people are better able to pursue a broader range of human rights"[58]. As Uvin comments, "...much of the conversion to human rights still amounts to little more than rhetorical repackaging: policies that were once justified by their potential to improve investor confidence are now justified for their human rights potential....Nothing else, however, changes" [19: 600].

In such ways sovereign governments' freedom of action is constrained by subjecting them to the power of national and international markets that are highly manipulated by Western core economic interests [59,60]. As a result, "[w]hile modern democracy allows citizens only a limited role in the government of the state to which they belong, it is often sought to secure a degree of legitimacy for the activities of the state which other regimes are unable to match. It is this, rather than the expansion of popular control itself, that particularly appeals to the development agencies and financial institutions which promote democracy as a fundamental component of good governance"

[32: 35]. Thus “...international neo-liberalism is the most powerful, and consequently also the most dangerous, liberalism of our time.” [32: 37].

Allison, a leading advocate of HRA in SSF, opines that “[m]ost recent development and fishery governance reforms champion participation, empowerment, local self-determination, and transparency and accountability in decision-making. These are the building blocks of the rights-based approach as applied in practice” [1:102]. However, a contrary opinion contends that the asserted benefits for SSF under proposals such as the HRA are actually mediums for and carriers of neo-liberalism because they facilitate the penetration into communities of rationalities and operational methods that betray resource harvesters by undermining family life and cultural systems, and destroying the local social organization of production [8].

In the World Bank, for example, an exclusive focus on economic growth was replaced during the late-1980s and early-1990s by a good governance agenda, that combined democracy, and civil and political rights with free markets [19,61]. However, political rights are focused basically on governance, an emphasis that immediately indicates compatibility with the predominant neo-liberal paradigm. Several reasons account for the acceptance of such an expanded paradigm. Principle among these are the widely perceived shortcomings of the structural adjustment programs, the realization that reducing the role of the State would not magically stimulate economic growth and that this mistake had to be corrected. These were accompanied by a stress on approaches that would permit neo-liberal economic thinking to be balanced by a more democratically-based development dialog. In a departure from the neoclassical economic models hitherto employed, a link between the political process and economics was accepted, such that earlier neo-liberal theories were reversed by accepting a role for State intervention to ensure good governance [15,62,63].

Such changes signified a new approach to the governance of development, wherein the role of the market and that of the State and related networks were accommodated [64]. However, that did not alter the neo-liberal paradigm, since a State acting to ensure good governance would provide an “enabling environment” for a well functioning, accountable and transparent market. In other words, the prevailing neo-liberal paradigm went unchallenged since HRAs and political conditionality were carefully attuned to the “post-Washington Consensus,” which re-enhanced the role of the state in ensuring good governance, as opposed to an exclusive emphasis on market mechanisms. The rhetoric of good governance is revealed therein to be actually all about imposing market-based discipline and facilitating market mechanisms.

## 7. Refocusing HRA on SSF community cultural and social attributes

A more substantial approach to understanding and advancing the governance of SSF requires adopting an integrated approach that focuses from the outset on three qualities. The first of these requires an understanding that for most SSF peoples an individual's access to and use of marine resources arises from and is embedded in social relationships, as these play out through everyday life. Neither ‘property’ nor ‘rights’ have substantial expression or meaning outside of these social relations, other than as frameworks imposed by external powers and authorities. Understanding their character and dynamics is therefore a prerequisite for distilling what matters to and for people, let alone assaying the morality, sensibility and practicality of advocating particular initiatives or approaches on their behalf.

The second required quality is an analytical focus on the terms and conditions associated with harvesting marine resources. Where harvesting is primarily to produce commodities for exchange, the social and political conditions and terms governing exchange relations must be a primary focus. These conditions determine the extent to which harvesters capture a fair share of resource economic values. This focus assists understanding of the extent to which harvester impoverishment is an outcome of disempowerment and exploitation sited within exchange relations and power inequities.

The third required quality is a focus on the extent to which customary or pre-existing practices governing access to and use of marine resources constitute the basis for establishing a collective ‘right’ to participate in marine harvesting ways of life and livelihoods. Similar to the conceptual framework presented in the UN Declaration of the Rights of Indigenous Peoples [64], the ‘rights’ in SSF settings are best approached as based on and arising from the history, processes and dynamics of cultural expressions and social relationships represented in SSF peoples’ identities, understandings, practices, and ways of living. These are usually associated with specific geographical locations. Consequently, these ‘rights’ are collective and, as such, inalienable, i.e., cannot be bought or sold by individuals engaging with and benefiting from such ‘rights’. They are invested in, arise from and are expressed through group cultural and social relationships [43,44]. In this sense they are rights arising from and embedded in culture, and not explicable as commodifiable and transactable property rights.

Of course, reconciling this concept of ‘rights’ with an individually referenced notion of ‘rights’ is potentially problematical, largely because the former privileges distinctive social groups over conditions affecting individual choices. For instance, collective rights are exclusive to and for those with socially acknowledged membership. They exclude all others. Such a condition would be judged by some as unfair, prejudicial and a violation of a basic individual human right for equitable access to and a share in enough economic resources to assure well-being. Further, local cultures and customary practices must be acknowledged as potentially the primary sources of practices that enable a tyranny of collective self-interests and preferences that include various forms of nepotism, ethnocentricity, and gender and other ‘preferences’ or ‘inequalities’. Recognizing the strengths provided by customary practices and foundations does not translate, nor need to translate, as reifying and romanticizing customary practices and ‘the local’. Nor does it need to mean entrenching existing inequalities and advantages. The point is that strengths and limitations are made evident only through the thorough research needed to inform meaningful advocacy.

## 8. Conclusion

Around 2007, governance ideas based on rights for SSF began to coalesce around an HRA, a contentious subject that is nevertheless represented as a practical goal for international agencies and donors. However, as shown here the specification of the HRA goals and agendas does not encapsulate an unquestioned and universal acceptance of HRA in development. Further, HRA advocacy homogenizes diverse human conditions and cultures, as well as assumes the neo-liberal framed nation-state has the will, interest and capacity to adopt an HRA in SSF governance.

From a neo-liberal perspective, securing market and property rules while concomitantly reducing or removing non-market economic activities means that the rule of the market becomes an instrument of development and natural resource extraction. Measures to establish and legally secure property rules and rights

and to ensure that all vital economic relations and transactions follow the rule of the market are an integral part of neo-liberal policy and practices. These include HRAs and advocacy. In this respect, it is also telling that HRA advocates do not address substantially the attributes and implications of structured and prevailing systems of social inequity, economic exploitation, and power differentials for the meaningful translation of human rights in the life conditions of SSF peoples. These social, economic and political conditions are of little concern within neo-liberalism, particularly since the mix of market discipline and individual freedom is presumed to sort 'naturally' and necessarily winners from losers.

Advocacy of HRA for the SSF, especially in developing countries, overlooks this, while also seemingly unaware that human rights have been co-opted as a central ideological cornerstone in furtherance of the neo-liberal development agenda. As a result, the asserted potential role of existing programs and policies as a means of supporting and sustaining human rights programs is untenable. This has not been understood owing to the advocates' apparent unwillingness to consider the voluminous human rights literature and the ideas and evidence it examines.

The concept of human rights evolved from a West European Christian religious consciousness that specified the individual as the moral and ethical locus of fundamental and inalienable rights. It emerged from particular European economic, political and social processes that acted to discredit and suppress collectivized and kin- and kith-based cultural practices. Those qualities link directly to the philosophy, preferences and practices of neo-liberal capitalism. By the 1980s HRA could be incorporated readily into a defensive but superficial revision of the term "development" in order to burnish and generally restore a saliency that had been largely discredited by the human and social impacts of globalized structural changes during the 1970s and 1980s.

Thus it is illogical to assume that government programs and policies in developing countries will be used to implement HRA, and that the State will unflinchingly act in the best interests of citizens to uphold their human rights. It needs to be understood that in many settings existing initiatives are based on a neo-liberal agenda, and that HRA has been co-opted in many respects to serve this. Further, the HRA in SSF as currently proposed fails to account for, and actually contradicts and compromises indigenous rights as conceptualized, for example, in the UN Declaration of the Rights of Indigenous Peoples. Yet it is this notion of rights, potentially negated by an unsophisticated HRA advocacy, which offers considerable potential respecting the empowerment and self-determination of SSF peoples as a direct consequence of its embeddedness in inalienable communal and cultural foundations.

To salvage the valuable ethical and moral qualities of an HRA it is essential that some sophistication be brought to conceptualizing and advocating for human rights with respect to the human condition and its complexities. As Sen cautions, qualities considered and championed as human rights must satisfy at least a couple of basic 'plausibility' and 'threshold' conditions [11]. That is, the human rights claim must be judged as justifiably important to some aspect of the general human condition for the requirement that others acknowledge and advance the claim. Further, the claim must offer the prospect of sufficient social influence so as to focus meaningful political and social action on advancing it [11:329 ff]. At a minimum, failure to satisfy the plausibility and threshold conditions, will trivialize and discredit the very idea of human rights.

The HRA in SSF advocates do not even attempt to work through the conceptual difficulties and contextual challenges of their proposals. Amorphous processes are implied as the ways and means of improving SSF conditions through application of a HRA. Additionally, HRA champions provide no evidence that such

advocacy, for what many would consider one of many ways of making a living, attracts broad-based understanding and support. Nor do these champions consider that by essentially trivializing meanings their advocacy might have a negative impact on the seriousness with which others consider and pursue human rights. In Sen's terms they do not establish the *plausibility* of the proposal, and so fail to satisfy requisite *threshold* conditions.

A reconfiguration is now needed, one that focuses not on the individual, but on social relationships and cultural content that are expressed in local definition and governance of collective rights to access to and use of resources. This can be accomplished by relocating analysis and understanding from Western notions of individual rights to concepts that rest on and capture more collective and culturally-rooted ideas of social relations and obligations, as have been demonstrated from SSF in such widely separately locations as Nova Scotia, Canada [65], the Pacific Islands [66] and parts of Southeast Asia [67], among other places. In this context the notion and context of 'rights' explicitly expressed in the UN Declaration on the Rights of Indigenous Peoples is a more promising and substantial location for rights-based advocacy.

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