

SUBMISSION TO THE SPECIAL RAPPORTEUR ON THE HUMAN RIGHT TO A HEALTHY ENVIRONMENT

CALL FOR INPUTS ON OCEANS AND HUMAN RIGHTS – SUBMISSION BY BLUE VENTURES

Date: 8 November 2024

Blue Ventures (BV) is a conservation organisation that works with coastal communities to rebuild tropical fisheries and protect ocean life. We recognise the critical importance of increasing ocean protection and believe that conservation led by communities, for communities, is the only viable pathway to the protection of our coastal seas at scale. Informed by two decades working alongside coastal communities, we partner with small-scale fishers and community organisations to address overfishing and safeguard ocean life in ways that benefit them. Together we design, scale, strengthen and sustain fisheries management and conservation at the community level. We bring partners together in networks to advocate for reform, and share tools and best practices to support fishing communities across the globe.

1. Background and overview

- 1.1 The health of the world's oceans and coastal areas is directly linked to the enjoyment and preservation of numerous human rights, particularly those related to Indigenous peoples and local coastal communities. Our oceans underpin biodiversity, and provide a crucial source of food, and sustain livelihoods and communities around the globe. Oceans and coastal areas are also integral to cultural rights.
- 1.2 Pollution and climate change are affecting coastal communities whose livelihoods depend upon the ocean. Ocean degradation, whether due to overfishing, pollution or habitat destruction, therefore, threatens not only marine biodiversity but also human rights to food, health, work, and culture. A human rights-based approach (HRBA) is essential to conserve and restore marine ecosystems while ensuring equitable access to ocean resources for vulnerable communities and populations.
- 1.3 Despite various national and international frameworks for ocean governance, significant implementation gaps persist that threaten the fulfilment of human rights. Indigenous communities, small-scale fishers, and marginalised communities are particularly at risk, with their tenure rights and access to marine resources often inadequately recognised nor protected.
- 1.4 Previous conservation efforts have failed to achieve meaningful outcomes, underscoring the importance of inclusive, community-led approaches. Human rights violations in the name of conservation, such as community forced evictions or loss of access, use and management of resources, further highlight the need for safeguards that prioritise people alongside environmental goals. BV emphasises the need to respect the rights of Indigenous peoples and local communities (“IPLCs”), advocating for equitable involvement in marine conservation initiatives and explicit recognition of tenure rights.
- 1.5 This submission sets out BV's position on what constitutes effective measures and best practices for achieving the UN's goal of restoring and protecting marine ecosystems. It also highlights examples of poor practices in this area, and provides a number of recommendations for principles that should be followed in the pursuit of ocean conservation.

2. Studying best practices

Local community engagement

- 2.1 BV's position is that best practice involves engaging with the relevant local communities to devise, develop and implement conservation efforts. Examples of successful approaches include the integration of Indigenous knowledge and local land and ocean management practices into marine conservation initiatives, helping to ensure that conservation efforts do not come at the cost of local practices and human rights. Community-led fisheries management and in particular the establishment of Locally Managed Marine Areas ("**LMMAs**") have demonstrated success in balancing ecological and social needs. BV supports local partners and communities to manage marine resources, combining traditional practices with scientific approaches to achieve long-term sustainability.

Protection of tenure rights

- 2.2 The Food and Agriculture Organisation's (the "**FAO**") Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries (the "**Small-Scale Fisheries Guidelines**") provide a framework for the responsible governance of tenure rights. The Small-Scale Fisheries Guidelines call for an HRBA that respects the procedural and substantive rights of fishers and their communities, with a view to promoting the equitable management of small-scale fisheries. They emphasise social development and employment as critical aspects of sustainable small-scale fisheries management. Moreover, the Small-Scale Fisheries Guidelines highlight the need for fair market access, improved value chains, and the development of climate adaptation strategies for small-scale fisheries, recognising their vulnerability to climate change and disaster risks.
- 2.3 The FAO's Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries, and Forests (the "**Governance of Tenure Guidelines**") provide a framework to address tenure rights in the context of natural resource management. These guidelines emphasise that securing tenure for small-scale fishers is vital for ensuring sustainable livelihoods and food security. They call for the legal recognition of traditional or customary systems of tenure, non-discriminatory access to resources, particularly for vulnerable groups, including women, and stress that effective governance requires the meaningful participation of these communities in decision-making processes.
- 2.4 These documents jointly call attention to how conservation can only succeed when communities are at the centre of decision-making processes, where their rights are respected and their participation is genuine.
- 2.5 Tenure rights refer to the rights of individuals and communities to own, access, use, and/or manage natural resources, such as land, water and other natural resources. Tenure rights ensure that IPLCs have secure access to the resources they depend on. Recognising and protecting tenure rights is therefore a crucial step in the protection of livelihoods and cultural practices, and empowers communities to participate actively in conservation efforts. Not recognising tenure rights marginalises communities, and in the worst cases risks forced evictions.
- 2.6 In addition to secure access to resources and tenure rights, both guidelines also draw attention to the importance of community participation in decision-making and gender equality in developing conservation programmes, policy, and law.

Implementing democratic decision making

- 2.7 Efforts by communities in Madagascar to enhance the participation of small-scale fishers in marine conservation exemplify the power of inclusive and democratic decision-making. In 2006, two dozen fishing villages in southwest Madagascar joined forces to create an LMMA known as Velondriake. Across an area of reefs, lagoons, mangroves and sea-grass beds the size of a

quarter of a million football pitches, they banned destructive practices like poison fishing and established marine reserves permanently off limits to all fishing. The first LMMA in Madagascar, Velondriake is managed entirely by communities, for communities.

- 2.8 In Velondriake, BV supports members of the community to collect, analyse, and present data on fisheries landings quickly to other community members and management associations in order to inform decisions on livelihood initiatives and fisheries management. Results from this community-led monitoring have led to the recent decision by the community to increase coral reef no-take zones by 59 per cent, establish areas of protection for seagrass, and enforce management measures that protect reef flat health. While the area in which no fishing is allowed has increased, it remains small enough that livelihoods are not negatively impacted. And by taking these bold steps towards more protection, the community is helping to secure more sustainable fisheries long into the future.
- 2.9 Inspired by Velondriake's success, coastal communities across the country have followed suit, grouping together to establish hundreds of similar initiatives. This growing network now covers a fifth of Madagascar's inshore seabed, several times more than government-run protected areas. In less than two decades, this movement has become a dominant force in the conservation of one of Africa's longest coastlines, and it is continuing to expand with a scale and ambition that's unparalleled among coastal countries in the region.

Gender equality through the inclusion of women

- 2.10 Two further examples of democratic decision-making especially aiming to increase the inclusion of women, were put into practice by BV in Madagascar and the Comoros, and warrant mention here. In both locations, the organisation worked to increase female representation in local marine conservation by enabling women-only discussion spaces, and supporting women to participate in natural resource management associations as elected representatives.
- 2.11 In the Comoros, BV supported women from three villages to create the first fisherwomen association in the country. The women led on the implementation of a range of management initiatives, and were supported in these endeavours by a men's association. The fisherwomen association was invited by the government to inspire other communities through exchange visits, a testament to their leadership.
- 2.12 In Velondriake, BV worked with the local governing body ("**the Velondriake Association, or VA**") to implement several strategies to improve women's decision making in marine conservation, introducing open voting processes to ensure the VA was representative of the population, as well as providing training in leadership skills, literacy and numeracy for women.
- 2.13 The result is that 52% of the governing body are now women. This figure is up from 13% in 2013 and 30% in 2019 and is far higher than elsewhere in Madagascar, where community associations remain male dominated. In addition, almost 100% of the Savings and Internal Loan Committee members are women, and access to savings and loans provided a particularly important buffer to them during the COVID crisis when value chains were disrupted.

3. Avoiding poor practices

- 3.1 While community-led conservation offers promising results, BV considers it is also important to continually review and learn from poor practices and how previous conservation failures have historically led to human rights violations and ineffective outcomes, often from top-down approaches that did not adequately engage with local communities.

Forced displacement of communities

- 3.2 IPLCs that depend on ecosystems for their lives and livelihoods are subject to forced evictions and relocation or have their rights to access, use and manage resources curtailed without compensation to create protected areas or wildlife reserves. Imposing conservation measures

this way transforms communities into “environmental refugees”. This creates a stark contradiction in which the quest to safeguard nature simultaneously violates the rights and lives of those who should be the custodians of it. International law prohibits forced evictions and international courts are increasingly applying these standards in the context of conservation. In 2017 The African Court of Human and Peoples’ Rights ruled on such a case, ordering the Kenyan government to compensate the Ogiek Indigenous people for forced evictions.¹ Kenya had argued that the Ogiek needed to be removed for conservation reasons, but the court ruled that the evictions violated their right to property and right to practise their culture. The Court clarified that the right to property should be interpreted broadly for Indigenous peoples to include rights of possession, occupation, and use of their ancestral land and natural resources (paras 123-126). This decision is legally binding but has so far proven unenforceable, with Kenya allegedly continuing to evict Ogiek people for environmental conservation schemes.² This demonstrates the need for international standards to be adopted in national law and policy, and for global conservation initiatives to ensure an accountable human rights-based approach is adopted in practice.

Failure of the Aichi biodiversity targets

- 3.3 International conservation and biodiversity targets are frequently missed. The 20 Aichi nature protection targets, set in 2010 under the Convention on Biological Diversity (“**CBD**”), were aimed at addressing global environmental challenges and covered everything from tackling pollution to protecting coral reefs. Not a single one of them was achieved. However, some progress was made, particularly on protected area coverage (Target 11) and there are far more marine MPAs today than there were in 2010.
- 3.4 Yet while the world got close to reaching headline protection goals, it fell well short when it came to ensuring that the areas were representative, well connected and effectively managed. In the rush to meet Target 11, speed trumped quality. Many of the protected areas established are paper parks, and lack the financing, management, local engagement and enforcement they need to deliver the promised biological and social benefits.
- 3.5 The failure to achieve the Aichi Targets stemmed from several issues:
 - (a) **Lack of accountability and enforcement mechanisms:** While countries committed to the Aichi Targets, there was no binding enforcement. The Aichi Targets remained voluntary, leading to inconsistent implementation and limited accountability.
 - (b) **Lack of funding:** Many nations lacked funding to implement conservation measures. Without adequate funding, projects aimed at protecting natural habitats and preserving biodiversity were limited in scope or never materialised.
 - (c) **Economic pressures:** Economic priorities often took precedence over conservation efforts, especially in developing countries where immediate socio-economic needs conflicted with long-term biodiversity goals. As a result, industries contributing to biodiversity loss, such as fishing, continued to expand with few restrictions.
 - (d) **Lack of sector integration:** Biodiversity conservation was poorly integrated into policies for agriculture, forestry, and fisheries. This disconnect allowed activities in these sectors to continue damaging ecosystems, and undermined conservation goals.
- 3.6 This failure highlights systemic issues within international conservation efforts, highlighting the need for more practical, cohesive and locally led approaches which crucially must be backed by adequate funding.

¹ African Court of Human and Peoples’ Rights, ACHPR v Kenya, Application no. 006/2012 (2017) (the ‘Ogiek Judgment’).

² BBC, Kenya’s Ogiek people being evicted for carbon credits - lawyers (2023) available at: <https://www.bbc.co.uk/news/world-africa-67352067>

4. A way forward for global marine conservation

Implementing a human rights-based approach to biodiversity conservation

- 4.1 The interdependence of human rights and biodiversity is increasingly recognised in international law. In 2021, the UN Human Rights Council affirmed that the loss of biodiversity results in human rights violations, while its protection contributes to the enjoyment of human rights. Commitments to implementing an HRBA are central to the Global Biodiversity Framework (2022, the replacement for the Aichi accords) under the CBD. An HRBA puts the way of life of IPLCs at the heart of biodiversity conservation. It requires ongoing, meaningful consultation with affected communities and Free, Prior and Informed Consent across all conservation policy development and implementation. Special attention must be paid to any marginalised groups. Crucially, all corresponding national law must be reviewed and brought in line with relevant international human rights law standards ensuring clear procedural rights and access to accountability mechanisms.
- 4.2 Implementing an HRBA to biodiversity conservation means adopting human rights due diligence procedures to ensure that risks to IPLCs are identified and mitigated. All conservation measures should include human rights impact assessments, social safeguards, grievance mechanisms, and guarantees of remedy and restitution if rights are violated. All external initiatives must include meaningful participation of local communities and, where possible, be built upon existing long-term relationships with affected stakeholders. IPLCs cannot be treated as passive objects in conservation policy. An HRBA designates them as rights-holders to be supported and, where conflicts exist, negotiated with to with full respect for their individual and collective human rights.

Economic and cultural importance of marine resources

- 4.3 The economic significance of marine resources cannot be overstated. For millions of people across the world, particularly in coastal and island nations, the ocean is their primary source of livelihood, food, and cultural identity. Small-scale fisheries employ more than 90% of the world's fishers, and these fisheries are often the backbone of coastal economies. They also serve as a vital source of food, contributing to global food security. The loss of these healthy environments means the loss of livelihoods and will result in mass migration nationally and internationally.
- 4.4 Beyond economics, the ocean holds deep cultural and spiritual meaning for coastal communities, including many Indigenous peoples. For example, traditional fishing practices are often accompanied by rituals and cultural expressions that are passed down through generations, forming a core part of the community's identity. Policies that fail to take into account the cultural connections between communities and the ocean therefore risk undermining not only livelihoods but also cultural heritages. Respecting these cultural dimensions is essential for any conservation effort to be just and effective.

Recommendations

- 4.5 A key lesson that should be taken from the successful practices discussed in Section 2 is the need to create conservation strategies via a democratic process that recognises the need for community-based involvement. The core of this is a deep, comprehensive and culturally appropriate community engagement process, so that all those affected by the proposed strategies are able to fully engage in the process, and so conservation teams are aware of individual issues, unique cultural circumstances, and the inherent challenges such communities face.
- 4.6 For a democratic, community-based approach, the following principles should be taken into account when developing conservation strategies:
- (a) **Inclusive approaches to governance:** Establish inclusive governance structures that prioritise Indigenous peoples, women, and small-scale fishers. This includes

recognising customary rights, supporting community-driven management initiatives, and integrating traditional ecological knowledge into policy making.

- (b) **Promote equitable conservation:** Ensure that initiatives like the “30x30” target (which aims to protect 30% of the world’s oceans by 2030 and which has previously faced criticism for prioritising numerical targets over social and cultural considerations) are designed and implemented with full community participation, preventing the exclusion of local communities. Conservation efforts should always take account of the need for communities to maintain access to their traditional marine resources.
- (c) **Human rights safeguards:** Implement robust safeguards for all ocean-related projects, ensuring compliance with international human rights standards and preventing harm to marginalised communities. Effective grievance procedures must be in place to allow communities to report abuses and seek redress in cases where their rights are violated.

5. Conclusion

- 5.1 The survival of our oceans is intrinsically linked to the protection of the human rights of coastal communities. Initiatives must therefore prioritise including and empowering local communities, so that they may become actively engaged with developing and managing effective conservation strategies, recognising that their proximity to the issue and understanding of the local environment is invaluable to finding solutions to the issues we face globally. The Special Rapporteur’s report can play a critical role in advocating for stronger ocean governance, prioritising human rights, and providing tools for effective implementation that benefit both marine ecosystems and the communities that depend on them. We should be adopting community-led, rights-based approaches to marine conservation, so that local stakeholders can meaningfully lead the conservation conversation.

APPENDIX: REFERENCE LINKS

1. Inputs to Special Rapporteur by National Platform for Small Scale Fishworkers:
<https://www.ohchr.org/sites/default/files/documents/issues/food/cfi-food-fisheries/subm-food-securing-sustainable-csos-othe-national-platform-small-scale-fishwo-rkers.docx>
2. Inputs to Special Rapporteur by CFFA:
<https://www.ohchr.org/sites/default/files/documents/issues/food/cfi-food-fisheries/subm-food-securing-sustainable-csos-othe-cffa.docx>
3. Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security: <https://www.fao.org/policy-support/tools-and-publications/resources-details/en/c/416990/>
4. Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication:
<https://openknowledge.fao.org/server/api/core/bitstreams/edffbfbc-81e5-4208-a36f-334ff81ac10f/content>
5. Small scale fisheries and sustainable development:
<https://openknowledge.fao.org/server/api/core/bitstreams/df776156-23d4-4712-869e-8cf088ce5091/content>
6. Unpacking a human rights-based approach to small-scale fisheries:
https://oneoceanhub.org/wp-content/uploads/2022/06/Policy-brief_HUMANRIGHTS_Smallscalefisheries_OOH.pdf
7. Open letter on 30x30: <https://blueventures.org/what-we-do/advocacy/30x30/open-letter-cbd15/>
8. BV 30x30 position paper: <https://blueventures.org/what-we-do/advocacy/30x30/>
9. Summary of our West Africa regional advocacy program:
<https://docs.google.com/document/d/117FV-82m5oq9JSgUclrswnGN5SPYc94lzniPk2jkSEjY/edit?usp=sharing>