

CURRENT TRENDS IN THE UNITED NATIONS HUMAN RIGHTS-BASED NATURAL RESOURCES GOVERNANCE THROUGH SOCIO-LEGAL INSTRUMENTS: AN APPRAISAL

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ABSTRACT

Natural resources are the source of wealth for many countries in the world. The management of such sources is determined by the government of the countries through governance. Natural resources are used to make food, fuel, and raw materials to produce goods. Food comes from plants, animals, and other natural resources. There is inequality in the sharing of these natural resources. This explains the concern of the United Nations on natural resources from a human rights-based approach, this brought about the Declaration of the International Conference on Agrarian Reform and Rural Development (ICARRD), 2006, the United Nations Declaration on the Rights of Indigenous Peoples, 2007, the United Nations Resolution 64/292 on the right to water and sanitation, 2010, Voluntary Guidelines on responsible governance of tenure of land, fisheries and forests in the context of national food security, 2012 and Voluntary Guidelines for Securing Sustainable Small-scale Fisheries in the Context of Food Security and Poverty Eradication, 2014. The issue this article seeks to address is that despite the efforts of the United Nations, there is still inequality in the governance of natural resources. This article adopts doctrinal research methodology and places reliance on primary and secondary sources. It relied on international statutes, articles in journals, and online materials among others. This article observes that most of the international

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instruments on natural resources governance are voluntary in nature and this makes enforcement unattainable. It concludes that the United Nations should come up with binding international legal instruments for natural resources governance to ensure just and equitable distribution.

Keywords: *United Nations, Human Rights, Natural Resources, Governance, Socio-Legal Instruments*

1. INTRODUCTION

The terms 'human rights, natural resources, and governance' are familiar words in our day-to-day activities. Using natural resources governance to ensure that the fundamental human rights of citizens are upheld is a task that involves more than simple dialogue. It involves using legal instruments as a tool for social re-engineering to ensure equitable distribution of natural resources. There is inequality in the distribution of natural resources; the duty of the government is to ensure equal distribution. The human rights-based approach is a framework for human development. It seeks to analyse the inequalities that lie at the heart of development and address them. Further, it is based on international human rights standards. The whole aim of this approach is to encourage and protect human rights, especially vulnerable and marginalised people. Thus, this article investigates these issues through the appraisal of international legal instruments.

2. UNIVERSAL DECLARATION OF HUMAN RIGHTS

The Universal Declaration of Human Rights was proclaimed by the United Nations General Assembly in Paris on 10th December 1948 through General Assembly resolution 217A as a common standard of

achievements for all people and all nations.¹ It sets out, for the first time, for fundamental human rights to be universally protected.² These rights are recognised all over the world. This UN document has thirty articles, and the most relevant provisions of the Declaration are discussed below:

Article 1 recognises equality when it provides that all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2 of the instruments provides that:

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional, or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing, or under any other limitation of sovereignty.

Article 3 provides that everyone has the right to life, liberty, and security of person while Article 4 provides that no one shall be held in slavery or servitude and that slavery, and the slave trade shall be prohibited in all their forms.

Article 5 provides that no one shall be subjected to torture or cruel, inhuman, or degrading treatment or punishment and Article 6 provides

¹ United Nations, 'Universal Declaration of Human Rights, History of the Declaration' <<https://www.un.org/en/about-us/udhr/history-of-the-declaration>> Accessed on 6 April 2022.

² The preamble of the United Nations Universal Declaration of Human Rights.

that everyone has the right to recognition everywhere as a person before the law.

Article 7 in reiterating equality before the law provides that all are equal before the law and are entitled without any discrimination to equal protection of the law. Moreover, all are entitled to equal protection against any discrimination in violation of the UN Declaration and against any incitement to such discrimination.

Article 8 provides that everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted by the constitution or by law and Article 9 provides that no one shall be subjected to arbitrary arrest, detention, or exile. On equal and fair hearing, Article 10 provides that everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and any criminal charge against him.

On the right to own property, Article 17 provides that everyone has the right to own property solely or jointly and no one should be deprived of his property without recourse to law.

On the provision of the right to social security, Article 22 provides that every citizen 'is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality'. Economic, social, and cultural rights involve natural resource governance for equitable distribution to the citizens.

On the right to the right standard of living, Article 25 provides that:

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing, and medical care, and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age, or other lack of livelihood in circumstances beyond his control. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

The above provision emphasises the fact that the standard of living of citizens is non-negotiable. The government must ensure that all its citizens are well always taken care of, especially the vulnerable persons.

Article 28 provides that everyone is entitled to a social and international order in which the rights and freedoms set forth in the Declaration can be fully realised.

The final section of the Declaration which is Article 30 provides that nothing in the Declaration may be interpreted as implying for any State, group, or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms outlined in the Declaration. This year, 2023 marks the 75th anniversary of the Universal Declaration of Human Rights. A world free of human rights abuse in all ramifications is now achievable.

3. NATURAL RESOURCES

Natural resources can be described as any biological, mineral, or aesthetic asset afforded by nature without human intervention which can be used for some form of benefit, whether economical or otherwise.³

According to Fisher, Natural resources are elusive terms, because of the resistance to framing the concept or giving it a broad definition.⁴ He opines further that it cannot be enough to state that natural resources are land, water, forests, and minerals. He elaborates on the above in terms of the economic value of natural resources when he states:

It would appear that a natural resource is a growing thing that may move from a stage in which men become increasingly aware of possible economic significance to a stage in which labour and capital are applied to it, and it can command a price. The precise point at which one should cease calling the resource a natural resource and start calling it capital or something else is difficult to determine.⁵

Fisher states that natural resource in their raw form is the real natural resource but when it is transformed into economic value through labour and capital, they can no longer be called 'natural resource'.

In contrast, Soukar points out natural resource endowment and its impacts on general economic aspects are important issues from academic and political perspectives. He opines further that they are indispensable

³ 'Natural Resource'. Encyclopedia Britannica, 21 Jun. 2023.

<https://www.britannica.com/science/natural-resource>. Accessed on 9 July 2023.

⁴ J. L Fisher, 'Natural Resources and Technological Change' 29(1)(1953) Land Economics 57,58.

⁵ *ibid.*

factors for the production and maintenance of a high standard of living.⁶As Soukar stated:

In my view, a natural resource will always be a natural resource no matter the level of transformation that goes into making it economically valuable. The concept of natural resources is that the raw form cannot be created by humans. For instance, no matter the level of labour and capital that goes into water or land, it will continue to be a natural resource.⁷

4. GOVERNANCE

This section aims to provide an explanation elucidating the fundamental essence and intricacies encompassing the concept of governance. It is a conceptual clarification that analyses the governance concept in relevance to this article. The concept of 'Governance' is not novel, but rather a historically rooted and enduring principle. It means the process of decision-making and the process by which decisions are executed. Governance is used in several contexts such as corporate governance, international governance, national governance, local governance, and natural resources governance. It focuses on the formal and informal actors who are involved in decision-making and implementation. Thus, the government is the major actor in governance.⁸

Briassoulis conducted a comprehensive analysis elucidating the multifaceted dimensions and components inherent within the concept of

⁶ L Soukar. 'Natural Resources Endowment and WTO' 34(3) (2019) *Journal of Economic Integration*, 546.

⁷ *Ibid.*

⁸ D Singh., Ansari, N. A., & Singh, S. 'Good Governance & Implementation in Era of Globalization'. *The Indian Journal of Political Science*, 70(4)(2009) 1109–1120, 1111.

governance. He analysed different ways governance is used.⁹ In his analysis, he stated as follows:

Governance is a concept that has captured the attention and interest of academics, politicians, and laypersons since the late 1980s. It has diffused in a broad range of scientific disciplines beyond the Political and Policy Sciences and is being empirically explored in numerous applications on a variety of subjects worldwide. The common, cross-cutting understanding is that it is the process of steering for collective action with respect to an issue in private and public affairs. The prefixes and modifiers that usually accompany it denote either a subject area (urban, regional, rural, tourism, migration, environmental, coastal, energy, etc.), or a spatial level (local, regional, multi-level, global), a mode of governance (hierarchical, market, corporate, self-governance), a style of governance (authoritarian, interactive, deliberative, discursive, adaptive), an issue (carbon forestry, natural gas transit, biological economies, housing, global crisis, preparedness) or its quality (good, sustainable, inclusive).¹⁰

Thus, according to Briassoulis, governance is a universal process that occurs in every aspect of human endeavours.¹¹ This position is correct because good governance ensures the proper organisation of the universe.

⁹ H Briassoulis, 'Governance as Multiplicity: the Assemblage Thinking Perspective' 52(3) (2019) *Policy Sciences*, 419, 420.

¹⁰ *ibid.*

¹¹ *Ibid.*

5. CONCEPT OF NATURAL RESOURCES GOVERNANCE

This research remains incomplete without a comprehensive discussion about natural resources governance. Natural resource governance can be defined as the norms, institutions, and processes that determine how power and responsibilities over natural resources are exercised, and how decisions are taken and implemented. It also involves how citizens, including women, men, youth, indigenous people, and local communities participate and benefit from the management of natural resources.¹²

According to the Natural Resource Governance Framework of the International Union for the Conservation of Nature,¹³ it comprises the norms, institutions, and processes that determine the exercise of power and responsibilities over natural resources, as well as the decision-making and citizen participation process in benefitting from resource management.¹⁴

This framework contains a set of ten principles for equitable, effective governance and conditions that are important for the implementation of each of the principles. The interrelated values in this framework include sustaining nature and realising social equity and human rights. The ten principles are inclusive decision making, recognition and respect for

¹² J Graham, B Amos, and T Plumtree, 'Governance Principles for Protected Areas in the 21st Century'. Prepared for the Fifth World Parks Congress 2003 (Durban, South Africa). (2003) Ottawa: Institute on Governance, Parks Canada, and Canadian International Development Agency.

https://www.files.ethz.ch/isn/122197/pa_governance2.pdf (accessed 7 July 2023).

¹³ Created in 1948, IUCN is now the world's largest and most diverse environmental network, harnessing the knowledge, resources, and reach of more than 1,400 Member organisations and some 18,000 experts. It is a leading provider of conservation data, assessments, and analysis. Its broad membership enables IUCN to fill the role of incubator and trusted repository of best practices, tools, and international standards.

¹⁴ Springer, J., Campese, J. and Nakangu, B. 'The Natural Resource Governance Framework – Improving governance for equitable and effective conservation' (2021) Gland, Switzerland: IUCN.iv.
<https://portals.iucn.org/library/sites/library/files/documents/2021-031-En.pdf> (accessed 7 July 2023).

tenure rights, recognition of and respect for diverse cultures, knowledge, and institutions, devolution, strategic vision, direction, and learning, coordination and coherence, sustainable and equitably shared resources, accountability, fair and effective rule of law, access to justice and conflict resolution.

According to Okpaleke and Abraham-Dukuma, many resource-rich countries expect the blessing and abundance of natural resource wealth to bring forth meaningful development, but the incidences of corruption and weak resource management have discontinued this expectation. This trend can be linked to a lack of effective and transparent natural resource governance frameworks.¹⁵ Frequently, policies based on property rights, although effective in some cases, have highlighted that the primary challenge lies in the practical execution aspects¹⁶

6. UNSOCIO-LEGAL INSTRUMENTS

This section discusses the United Nations' socio-legal instruments on natural resource governance. The instruments are referred to as socio-legal instruments because they are voluntary guidelines. They are however important documents worthy of discussion.

6.1. Declaration of the International Conference on Agrarian Reform and Rural Development (ICARRD), 2006

The International Conference on Agrarian Reform and Rural Development (ICARRD) which was held in Porto Alegre from 7th to 10th March 2006 was jointly organised by the Food and Agriculture Organization of the United

¹⁵ F N Okpaleke, , M Abraham-Dukuma, 'Dynamics of Resource Governance, Climate Change, and Security: Insights from Nigeria and Norway'. 13(4)(2020), *Journal of Strategic Security*,123.

¹⁶ G P Shivakoti, M A Janssen, N B Chhetri, 'Agricultural and Natural Resources Adaptations to Climate Change: Governance Challenges in Asia'. 13(2) (2019). *International Journal of the Commons*, 827, 828.

Nations along with the Government of Brazil to investigate new development opportunities to improve rural communities worldwide.¹⁷

The ICARRD emphasizes the importance of agrarian reform for the realisation of basic human rights. The final declaration of the conference reiterates the crucial role of agrarian reforms in fighting hunger, improving sustainable development models, and implementing human rights. It adopts an approach based on economic, social, and cultural rights for the equitable management of land, water, forest, and other natural resources especially for women, and marginalised and vulnerable groups. Especially in regions marked by pronounced social disparities, poverty, and food insecurity, agrarian reform seeks to expand and ensure equitable access to land and other resources. Consequently, governments bear the responsibility for executing agrarian reform initiatives within these contexts.¹⁸

In paragraph 28 of the ICARRD declaration, its vision was captured as follows:

We propose that rural development policies, including those on agrarian reforms, should be more focused on the poor and their organizations, socially driven, participatory, and respectful of gender equality, in the context of economic, social, and environmentally sound sustainable development. They should contribute to food security and poverty eradication, based on secure individual, communal, and collective rights, and equality, including, inter alia, employment, especially for the landless,

¹⁷ Access to Land, 'Final Declaration of the International Conference on Agrarian Reform and Rural Development' (2006) <https://www.accesstoland.eu/Final-declaration-of-the-International-Conference-on-Agrarian-Reform-and-Rural> (accessed 28 June 2023).

¹⁸ *ibid.*

strengthening local and national markets, income generation, in particular through small and medium-sized enterprises, social inclusion and conservation of the environmental and cultural assets of the rural areas, through a sustainable livelihood perspective and the empowerment of vulnerable rural stakeholder groups. These policies should also be implemented in a context that fully respects the rights and aspirations of rural people, especially marginalized and vulnerable groups, within the national legal frameworks and through effective dialogue.¹⁹

Paragraph 29 of the Declaration outlines the principles agreed upon among which is the “strengthening the role of the State to develop and implement more just and people-centred development policies and programmes to ensure food security and the wellbeing of all citizens, particularly programmes aimed at addressing the impact of HIV/AIDS and other diseases on rural communities and livelihoods”.²⁰

There was a discussion on the agrarian reform and rural development outcome and follow-up at the twenty-fifth regional conference for Africa held in Nairobi, Kenya between 16th – 20th June 2008. The key areas that needed attention at the time are in the areas of financial and human constraints, lack of awareness and understanding, absence of representative rural institutions to strengthen group tenure rights, and non-harmonisation of gender policies with customary laws on property

¹⁹ International Conference on Agrarian Reform and Rural Development Final Declaration p.4.
https://www.accesstoland.eu/IMG/pdf/2006_03_finaldeclaration_fao_conference_en-1-3.pdf (accessed 28 June 2023).

²⁰ *ibid.* p.5.

and inheritance.²¹ The discussion regarding this matter continues to be relevant even in contemporary times.

6.2. United Nations Declaration on the Rights of Indigenous Peoples, 2007

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) was adopted by the General Assembly on Thursday, 13 September 2007.²² Today, it is the most detailed international instrument on the rights of Indigenous Peoples. It births a universal framework of minimum standards for the survival, dignity, and well-being of the Indigenous Peoples of the world and it expatiates on existing human rights standards and fundamental freedoms as they apply to the specific situation of Indigenous Peoples.²³

The preamble of the Declaration emphasises the importance of the rights of the indigenous people: “that indigenous peoples are equal to all other peoples while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such.” Article 1 provides that the indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights, and international human rights law.

²¹ Twenty-Fifth Regional Conference for Africa, Nairobi, Kenya, 16 – 20 June 2008. ‘Agrarian Reform And Rural Development Outcome and Follow-Up’ ARC/08/INF/7 p.10 <https://www.fao.org/3/k1821e/k1821e.pdf> (accessed 28 June 2023).

²² United Nations, ‘United Nations Declaration On The Rights Of Indigenous Peoples’ <https://social.desa.un.org/issues/indigenous-peoples/united-nations-declaration-on-the-rights-of-indigenous-peoples#:~:text=The%20United%20Nations%20Declaration%20on,%2C%20Bangladesh%2C%20Bhutan%2C%20Burundi%2C> (accessed on 28 June 2023).

²³ *ibid.*

All the rights granted to the indigenous people apply to both males and females.²⁴ It is important to note here that the instrument did not confer special human rights on the indigenous people, but it emphasises that the indigenous people are also guaranteed fundamental rights as every other citizen. The rights recognised in the instrument constitute the minimum standards for the survival, dignity, and well-being of the indigenous peoples of the world.²⁵ The implementation of above rights is provided under Articles 41 and 42.²⁶

6.3. United Nations Resolution 64/292 on the Right to Safe and Clean Drinking Water and Sanitation

The UN General Assembly on July 28, 2010, adopted resolution 64/292 recognising “the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights”.²⁷ However, the Human Rights Council, in September 2010, affirmed this paragraphs, and clarified that the right is

²⁴ The United Nations Declaration on the Rights of Indigenous Peoples, 2007, art. 44.

²⁵ The United Nations Declaration on the Rights of Indigenous Peoples, 2007, art. 43

²⁶ Ibid art. 41 provides that:

The organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this Declaration through the mobilization, inter alia, of financial cooperation and technical assistance. Ways and means of ensuring the participation of indigenous peoples on issues affecting them shall be established.

While art. 42 provides that:

The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration.

²⁷ UN, ‘10th anniversary of the UNGA resolution on the human rights to water and sanitation’ <https://www.unwater.org/news/10th-anniversary-unga-resolution-human-rights-water-and-sanitation> (accessed 28 June 2023).

derived from the right to an adequate standard of living.²⁸ The resolution has three paragraphs and it provides that the UN General Assembly:²⁹

1. Recognizes the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights.
2. Calls upon States and international organizations to provide financial resources, capacity-building, and technology transfer, through international assistance and cooperation, in particular to developing countries, to scale up efforts to provide safe, clean, accessible, and affordable drinking water and sanitation for all.
3. Welcomes the decision by the Human Rights Council to request that the independent expert on human rights obligations related to access the safe drinking water and sanitation submit an annual report to the General Assembly, and encourages her to continue working on all aspects of her mandate and, in consultation with all relevant United Nations agencies, funds and programmes, to include in her report to the Assembly, at its sixty-sixth session, the principal challenges related to the realization of the human right to safe and clean drinking water and sanitation and their impact on the achievement of the Millennium Development Goals.

²⁸ Resolution adopted by the Human Rights Council on 6 October 2010, 15/9 Human rights and access to safe drinking water and sanitation The Human Rights Council.

²⁹ Resolution 64/292 adopted by the General Assembly on 28 July 2010 [without reference to a Main Committee (A/64/L.63/Rev.1 and Add.1)] United Nations, *The Human Right to Water and Sanitation* < [The human right to water and sanitation : \(un.org\)](#)> (accessed 28 June 2023).

The year 2020 marked the tenth anniversary of the adoption of the resolution by the UN General Assembly recognising the human rights to water and sanitation. Throughout 2020, the Special Rapporteur on the human rights to safe drinking water and sanitation organised a campaign to celebrate 10 years of work and advocacy for the human rights to water and sanitation with different themes from January to October 2020.³⁰

The United Nations continues to monitor the implementation of the right to water and sanitation through an annual data drive. For instance, the 2023 Data Drive is part of the UN-Water Integrated Monitoring Initiative for Sustainable Development Goal 6 (IMI-SDG6): 'Ensure availability and sustainable management of water and sanitation for all'. Adoption of the SDGs by countries enables them to commit their data report on SDG indicators to the UN to track progress and ensure accountability.³¹

6.3.1. Voluntary Guidelines on responsible governance of Tenure of Land, fisheries, and Forests in the Context of national food security, 2012

The Voluntary Guidelines on responsible governance of tenure of land, fisheries, and forests in the context of national food security originated into existence in 2012. The Guidelines had however been replaced with the 2022 edition.³²

The guidelines promote responsible governance of tenure of land, fisheries, and forests, for all forms of tenure: public, private, communal, indigenous, customary, and informal. The aims are to achieve food

³⁰ United Nation, '10th anniversary of the UNGA resolution on the human rights to water and sanitation'.

³¹ United Nations, UN-Water, '2023 Data Drive' <https://www.unwater.org/news/2023-data-drive> (accessed 28 June 2023).

³² Food and Agriculture Organization of the United Nations, 'Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security 2022' Revised Edition <https://www.fao.org/3/i2801e/i2801e.pdf> (accessed 28 June 2023).

security for all and support the successful realisation of the right to adequate food in the context of national food security.³³

While promoting efforts in the eradication of hunger and poverty, the guidelines are also intended to contribute to achieving sustainable livelihoods, social stability, housing security, rural development, environmental protection, and sustainable social and economic development. The guidelines are developed to benefit all people in all countries; however, there is an emphasis on vulnerable and marginalised people as well.³⁴

Part of the objectives of the guidelines is to:³⁵

1. improve tenure governance by providing guidance and information on internationally accepted practices for systems that deal with the rights to be used, managed, and controlled land, fisheries, and forests.
2. contribute to the improvement and development of the policy, legal, and organizational frameworks regulating the range of tenure rights that exist over these resources.
3. enhance transparency and improve the functioning of tenure systems.
4. strengthen the capacities and operations of implementing agencies; judicial authorities; local governments; organizations of farmers and small-scale producers, fishers, and forest users; pastoralists; indigenous peoples and other communities; civil society; private sector;

³³ Food and Agriculture Organization of the United Nations, 'Governance of Tenure' <https://www.fao.org/tenure/en> (accessed 28 June 2023).

³⁴ *ibid.*

³⁵ Food and Agriculture Organization of the United Nations, 'Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security 2022.

academia; and all persons concerned with tenure governance as well as to promote the cooperation between the actors mentioned.

The guidelines are divided into 7 parts as preliminary, general matters, legal recognition and allocation of tenure rights and duties, transfers and other changes to tenure rights and duties, administration of tenure, responses to climate change and emergencies, and promotion, implementation, monitoring, and evaluation.

The guidelines place the governance of tenure within the context of national food security and contribute to the progressive realisation of the right to adequate food, poverty eradication, environmental protection, and sustainable social and economic development.³⁶

6.3.2 Voluntary Guidelines for Securing Sustainable Small-scale Fisheries in the Context of Food Security and Poverty Eradication, 2014

The principles in the Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication (SSF Guidelines) address policies, strategies, and legal frameworks relating to small-scale fisheries including other matters affecting lives and livelihood in fishing communities. The principles have a clear human rights-based approach, and they put people, rather than fish, in perspective. The SSF Guidelines are global in scope, and they guide dialogue, policy processes, and actions at national, regional, and international levels.³⁷

³⁶ *ibid.* p.44.

³⁷ Food and Agriculture Organization of the United Nations, 'Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication (SSF Guidelines)', <https://www.fao.org/voluntary-guidelines-small-scale-fisheries/en> (Accessed 28 June 2023).

The major issues in the guidelines involve managing resources and allocating tenure rights responsibly, supporting social development and decent work, looking at fish workers along the entire value chain from catching through processing to trading fish, promoting gender equality, and considering climate changes and disaster risks.³⁸

The Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication (SSF Guidelines) are the first international instrument dedicated entirely to the small-scale fisheries sector.³⁹ The Voluntary Guidelines for Securing Sustainable Small-scale Fisheries in the Context of Food Security and Poverty Eradication are important because they go beyond fisheries and emphasise the rights of fishers and fish workers. The guidelines encompass not only aspects related to fish but also consider the welfare and involvement of the individuals associated with fishing, namely the fishermen and women.

7. CURRENT STATUS OF THE INTERNATIONAL INSTRUMENTS

The international instruments on natural resources governance are attractive sets of rules that seek to ensure equality and justice for the people in the society. As attractive as these rules are, certain factors affect their effectiveness. These factors are discussed under each instrument.

The Declaration of the International Conference on Agrarian Reform and Rural Development (ICARRD), 2006 aimed to investigate new development opportunities to improve rural communities worldwide. The declaration is a soft law that do not create a binding role. Till today, up to

³⁸ *ibid.*

³⁹ Food and Agriculture Organization of the United Nations, 'Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication' <https://www.fao.org/voluntary-guidelines-small-scale-fisheries/background/en/> (accessed 28 June 2023).

the present day, the level of awareness of this declaration is not wide enough and the financial capability to implement the declaration is absent among the nations.

The United Nations Declaration on the Rights of Indigenous Peoples, 2007 creates a universal framework of standards required for the survival, dignity, and well-being of the Indigenous Peoples of the world and it expatiates on existing human rights standards and fundamental freedom as they apply to the specific situation of Indigenous Peoples.

The UN Declarations are not legally binding but represent the continuous development of international legal norms which reflect the commitment and desire of states to abide by certain principles.⁴⁰ So, Consequently, the Declaration on the Rights of Indigenous Peoples, 2007 is not legally binding on the states until it is adopted by them.

In 2010, the United Nations Resolution 64/292 on the right to water and sanitation was adopted. The resolution made “the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights”. Access to safe drinking water and sanitation are recognised as international human rights, and derived from the right to an adequate standard of living under Article 11(1) of the International Covenant on Economic, Social and Cultural Rights which provides that:

The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing, and housing, and to the continuous improvement of living

⁴⁰ United Nations Permanent Forum on Indigenous Issues, ‘Frequently Asked Questions: Declaration on the Rights of Indigenous Peoples’ <https://www.un.org/esa/socdev/unpfii/documents/FAQsindigenousdeclaration.pdf> (accessed 11 July 2023).

conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing the essential importance of international cooperation based on free consent.

A General Assembly resolution that is adopted by a large majority, done in a specific language which reflects the opinion of the international community, may be considered as being of a nature to be legally binding but may not be enforceable.

The voluntary guidelines on responsible governance of tenure of land, fisheries, and forests in the context of National Food Security 2022 are a set of rules that do not have any legal force. They are mere rules to guide proper governance of the tenure of land and other natural resources.

In the same vein, the voluntary guidelines for securing sustainable small-scale fisheries in the context of food security and poverty eradication 2014 are mere guidelines for the States to exercise their discretions. Similarly, the voluntary guidelines established in 2014 for ensuring sustainable small-scale fisheries within the framework of addressing food security and poverty eradication serve as recommendations for nation-states to utilize their discretion in implementation.

8. CONCLUSION AND RECOMMENDATION

All the international instruments discussed above are crucial for the management and implementation of natural resources governance. It is, however, important to state that the Declaration of the International Conference on Agrarian Reform and Rural Development (ICARRD), 2006, the United Nations Declaration on the Rights of Indigenous Peoples, 2007, the voluntary guidelines on responsible governance of tenure of land, fisheries and forests in the context of national food security 2022,

and the voluntary guidelines for securing sustainable small-scale fisheries in the context of food security and poverty eradication 2014 are set of attractive rules that are not legally binding but suitable to be adopted for natural resources governance.

The initial step is to transform the declarations from the International Conference on Agrarian Reform and Rural Development (ICARRD) in 2006, the United Nations Declaration on the Rights of Indigenous Peoples in 2007, the voluntary guidelines on responsible land, fisheries, and forests governance for national food security in 2022, as well as the guidelines for sustainable small-scale fisheries in the context of food security and poverty alleviation in 2014, into globally binding rules for governing natural resources.

Conclusively, a more comprehensive approach to addressing the inequalities in natural resource governance and the realisation of human rights should also be adopted. By taking these steps, we can actualise a world where the rights of all individuals are upheld, and the equitable distribution of natural resources becomes a reality.