Mr. Mortimer Manye  
Acting Director General  
Department of Agriculture, Forestry and Fisheries  
Office of the Director General  
Foreshore  
Cape Town  
DG@daff.gov.za, mortimerm@daff.gov.za

Re: Human Rights of fishing communities in the Western Cape under threat by delay in implementing the Small-Scale Fisheries Policies

Heidelberg, 03 December 2015

Your Excellency,

FIAN International is a non-profit international organization that has consultative status with the Economic and Social Council of the United Nations and works to promote human rights, and in particular the realization of the right to adequate food and nutrition. FIAN international has no religious or political affiliation and works in over 50 countries worldwide. The International Secretariat of FIAN is located in Heidelberg, Germany. It also has a permanent representation in Geneva through which it exercises its consultative status with the Economic and Social Council of the United Nations. FIAN also has observer status within the African Commission on Human and Peoples’ Rights.

As part of our worldwide activities supporting the dissemination and implementation of the Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests adopted by the UN Committee on World Food Security in 2012, FIAN has been recently in contact with organizations of small scale fishers in South Africa. We have been informed that small scale fishers from the coastal towns of Arniston, Struisbaai, Pearly Beach and several towns on the West Coast of the Western Cape are facing serious threats to the realization of their right to adequate food and nutrition due to their constrained access to fisheries, especially for women to intertidal zones, the non-recognition of their customary rights to fisheries, and the scarcity of fish due to the testing of ammunition in the Arniston waters. Additionally, it was reported to us that 49 small-
scale fishers from Arniston, Struisbaai and Pearly Beach have been excluded from the Interim Relief (IR) system (with regards to West Coast Lobster specifically) which was put in place until the Small-Scale Fisheries Policy is fully implemented. At the same time, the IR list reportedly includes a number of non-deserving fishers with no history in the sector.

According to our information, the affected small-scale fishers from Arniston, Struisbaai and Pearly Beach have been addressing their complaints to the Department of Agriculture, Forestry and Fisheries (DAFF) for a long time. On 27 November 2014, the fishers from these towns went to DAFF offices and handed over a memorandum. According to our information, at this meeting DAFF agreed to put the fishers back on the respective lists from the affected towns. However, one year after this agreement the situation remains the same and the fishers continue to be excluded from the lists.

This discriminatory treatment is particularly worrying against the background of the imminent implementation of the Small Scale Fisheries Policy (Government Gazette # 35455). The above mentioned fishers fear that they will be left out of that process due to the manner in which the DAFF has treated them in the Interim Relief system. The information at our disposal indicates that the delay in the implementation of the 2012 Small-scale fisheries policy and the reported irregularities in DAFF’s execution of the IR dispensation in the case of Arniston, Struisbaai and Pearly Beach is compromising the livelihoods of the fishers and aggravating divisions in the fishing community amongst the SSF (those who have long term rights issued in 2005, and those who are gaining access to Interim Relief efforts). Until the policy is implemented, fishers are restricted by regulations. Their traditional tenure arrangements have been replaced by a management system that requires a permit for everything - intertidal and sea species. Travelling costs to purchase the permit is a further challenge for the affected fishers. Restrictions around the type, size and when they can harvest these, together with the closure of their traditional fishing area due to the Marine Protected Area and the ammunition testing plant, further marginalizes them.

South Africa is State Party to the International Covenant on Economic, Social and Cultural Rights as well as to the African Charter on Human and Peoples’ Rights. These two human rights treaties protect the human rights of small-scale fishers, in particular their rights to non-discrimination, to an adequate standard of living, including food and housing, to work and decent working conditions as well as to due process of law and access to effective remedy. Discriminatory practices in the implementation of the Interim Relief policy amount to a violation of the human rights of fishers.
The Small-Scale Fisheries Policy of South Africa was passed with the aim of ending discriminatory treatment of small-scale fishers. This policy is in line with the International Guidelines for Securing Sustainable Small-Scale Fisheries\(^1\). Expeditious implementation of this policy is therefore a crucial measure in order to ensure the human rights of fishers, including their right to adequate food.

As an organization working worldwide for the realization of the right to food, we would like to ask you to immediately include the 49 fishers or Arniston, Struisbaai and Pearly Beach into the list of beneficiaries of the Interim Relief System. We would also like to urge you to take all necessary steps to start implementing the Small-Scale Fisheries Policy as soon as possible, in compliance with South Africa’s regional and international human rights obligations.

Director General, FIAN is confident of the crucial role you can play in carrying out your functions with due diligence through the implementation of South Africa’s international human rights obligations in favor of the small Scale Fishers of Arniston.

Sincerely,

Dr. Flavio Valente
FIAN International
Secretary General

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