

## Not an easy task

**These comments on the implementation of South Africa's new fisheries policy are a rejoinder to an earlier SAMUDRA Report article**

In SAMUDRA Report No. 24 (December 1999), Brian O'Riordan presents an extensive review of the situation in South Africa's fishing sector. It is rather depressing reading: "a tale of chaos and corruption". Even for people who have spent more than two weeks touring the fisheries sector, there are disturbing trends and accounts, running completely counter to the goals of equity and the redressing of historical imbalances. Nevertheless, the article shows a poor understanding of the process, and it is even poorer in advancing "sweeping and enlightened reforms". Therefore, a few comments from another outsider, who has followed the process since 1994.

The policy process leading up to the Marine Living Resources Act (MLRA) of 1998 was a long and complicated one, from the first ANC-based initiatives in 1994, through almost five years of negotiating within the Fisheries Policy Development Committee, leading to the White Paper and the MLR Bill and then to the final MLR Act, approved by Parliament in May 1998.

Of course, a lot of things could have been done differently, but, by and large, this was an open process, incorporating a large number of actors, who had never met before. More groups could have been consulted and more effort could have been put into publicizing the final Act, but this would hardly have changed the result.

The fisheries policy of South Africa, just as in most other countries, is a compromise, where the outcome is defined by the political strength of the contending forces. Compared to the situation in most other African countries and quite a few European ones as well, the fisheries policy process in South Africa was transparent

and inclusive. The most crucial issue all through the policy planning was the extent to which the transformation process should be allowed to disturb the existing industrial set-up. Noting, as O'Riordan rightly does, that most resources are fully utilized, redistribution means taking away from Peter in order to give to Paul.

The greatest impediment to a large-scale redistribution has, of course, been 'big business', but not alone! Organized labour played along with big business all the while. Not surprisingly, the fishworkers' union (FAWU) and other unions would like to protect the employment of their members, thus emphasizing industrial stability. (That the same unions would now like to operate as quota owners as well is an interesting paradox, implying all the familiar problems that go with wanting to sit on both sides of the table. But this is a general phenomenon in South Africa, not limited to the fishing industry alone.)

At the end of the day, the South African fisheries policy is a 'negotiated revolution', just like the rest of the 'revolution' leading to ANC's remarkable rise to power in 1994. Parts of the negotiations precisely ensured that established owners and workers had a certain security and a 'sunset clause' for the bureaucrats. That we can lament, but to little avail. The challenge is to see what can be accomplished, given these limitations.

### Pros and cons

A lot can be said of quota systems and their usefulness in small-scale fisheries. It was, nevertheless, the system preferred by a great majority of politicians in the South African Parliament, including the ANC representatives. It could have been much

worse! In the White Paper, a suggestion was made to hand out transferable fishing rights for perpetuity, while, in the final Act, we are dealing with fishing rights leased to the operators for a maximum of 15 years duration. Furthermore, all transfers have to be authorized by the State, thereby limiting the freedom of the established owners.

**A**gain, there were alternatives, but the alternatives presented by the small-scale fishers never succeeded in attracting any political support. Open access within fixed TACs never caught on because such a system is a waste of effort, bad for marketing and generally benefits only the established 'highliners', that is, the most clever and efficient fishers. Other alternatives were rather unclear as to who should have the right to fish. That also applies to the idea of community quotas, which had been an administrative catastrophe in the past. Whatever the case, it is important to stress that South Africa has got a system rather different from what was originally envisaged, based on the ITQ systems of New Zealand and Iceland.

No doubt, there has been a tremendous interest for acquiring quotas. More than 5,000 have applied for the 1999/2000 fishing season. When one out of ten is successful, no wonder rumours quickly start circulating about corruption and undue influence. It is still worth having a historical perspective of this process. In the past, until 1998, the so-called apolitical Quota Board allocated the quotas. Then, friends and cronies of the Minister and members of the National Party were quite successful, and, later, also people with good ANC contacts. Today, it is clearly stated that the allocation of quotas is a political responsibility, where the Minister is accountable, together with the government.

There are, furthermore, criteria as to who should get access, and there has been established a process of redress for the unsuccessful. According to our investigations, there are very few cases where the Minister has actually intervened, overruling the recommendations of the Chief Director, based on the screening process in the Directorate of Marine and Coastal

Management (MCM). These procedures can, no doubt, be improved, but they are considerably better than the old, at least seen from the perspective of the new entrants.

Allocations, according to the new Act, have only been done for the last two years, so far with relatively modest results. If we start calculating from 1994, when the new dispensation got into power, the redistribution would constitute approximately 25 per cent of the important hake quota and 31 per cent of the West Coast rock lobster quota, to mention only two of the most disputed fisheries. A relatively large number of new entrants have been brought into the industry, with small quotas per entrant.

The large companies are still dominating, holding the lion's share of the total quotas, but the trend is definitely working in the direction of a more diversified ownership. Whether this is good or bad depends entirely on what the new entrants are doing with their quotas. At present, we have a number of 'paper quota owners', people who have been allocated a small quota and who then sell or lease it to established operators for cash. That is to be expected, since the two years needed to acquire equity is too long a period if you have no access to capital other than the value of the quota(s).

Whatever the result of the redistribution process, there are bound to be a large number of dissatisfied applicants. Everybody can not possibly receive a quota. In 1999/2000 alone, there were more than 900 applicants for West Coast rock lobster. If all, excluding the old operators but including the recent new ones, should have an equal share, this would have turned out to be 1.6 tonnes per operator, to be diminished every year, as new entrants enter the race. This is hardly the quantity that would make for a viable industry.

#### **Difficult aim**

Implementing a new and rather ambitious policy is difficult, and it will probably take years before the new administrative system is up and running. (Why do we expect wonders from a Third World country like South Africa, when even European fishing nations would have

problems of standing up to the same standards?) Unfortunately, the ideas put up by the Artisanal Fishers Association are not very helpful, even if they may have a considerable potential for political mobilization.

**I** certainly agree with O’Riordan that apartheid destroyed the artisanal fisheries of South Africa, but precisely for this reason, restitution is not a viable route. (After 40 years, who should be making restitution and with what?) Looking forward is, therefore, more productive. As of year 2000, there are at least five major problems which have to be solved:

The most important task at the moment is to get a transformation schedule or plan, outlining the political vision by year 2000/2001 and then, five years from now, set specific targets on how much is going to be reallocated in each of the 17 fisheries. Such a plan has been missing all along the process, creating considerable insecurity among established operators, and confusion among new entrants as to what is realistic or possible in terms of reallocation. Such a plan should also contain where (in which sector) new entrants can most easily be accommodated. It goes without further saying that certain sectors like West Coast rock lobster, abalone, longlining, etc. require much less capital than others like trawling for deep-sea hake.

Secondly, it is necessary to strengthen the capacity and competence of the unit dealing with applications in the fisheries directorate (MCM). This should also include the establishment of a watchdog unit to check the validity of the information forwarded by the applicants and for follow-up, to see that organizational entrepreneurs do not kick out the true fishermen as soon as they have secured a fishing right. Furthermore, it is necessary to simplify the allocation criteria, so that the process appears as transparent as possible.

Thirdly, there is an urgent need to establish training schemes, especially in business skills. Many of the new rights holders do not have even the most rudimentary business skills and, therefore, fall easy prey to established

owners in all types of ‘joint ventures’. If business entrepreneurs are the ones going to transform the South African fishing industry, they certainly need assistance also in terms of easy credit. The requirement of obtaining equity within two years based on the fishing right as the only collateral is clearly unrealistic. Assistance to create more efficient organizations should also be considered, keeping in mind that a number of programmes are much more efficient if run through organizations comprising the target groups.

Finally, there is a need to introduce a resource fee. In the MLR Act, there is a provision for introducing a leasing fee for the fishing right. This has not yet been introduced, probably due to heavy resistance from established operators. Nevertheless, a resource fee is, in the end, what society gets back from the fishing industry for having the privilege of using a national resource. Experiences, lately from Iceland, show the weak legitimacy of a policy where the national resource is handed out for free, benefiting only the original operators.

O’Riordan’s account ends with the moving in of a team of investigators, looking into the alleged corruption of the present fisheries administration. Today, we know that most of the fuss was due to certain bureaucratic shortcuts and had little to do with personal enrichment through bribery. I do not deny the possibility of bribes (quite common under the old dispensation), but I do think this is often too easy a way out of a dilemma, that is, of explaining why everybody can not get a quota! In South Africa, just as in Norway or the EU, the challenge is to weigh social equity against biological sustainability and economic efficiency. That is a truly political task, with few fixed answers.

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Response