

Caught in a Net

Small-scale fishing communities in South Africa have to cope with unequal power relations as they seek effective means for the implementation of the SSF Guidelines

In July 2014 the International Collective in Support of Fishworkers (ICSF) hosted an international workshop on implementation of the Voluntary Guidelines for Sustainable Small-scale Fisheries (VG SSF), entitled “Towards Socially Just and Sustainable Fisheries: ICSF Workshop on Implementing the FAO Voluntary Guidelines for Securing Sustainable Small-scale Fisheries in the Context of Food Security and Poverty Eradication (SSF Guidelines)”.

Participants at the workshop recognized that power relations within which SSF communities

of information upon which the foundation of the SSF Guidelines implementation action plan can be built, ICSF has embarked on a number of national studies in order to promote deeper understanding of the social relations shaping small-scale fisheries (SSF) in different contexts. In 2015 a study of the dynamics and social relations impacting SSF in South Africa was undertaken. This was complemented with an analysis of the existing legislative and policy environment in South Africa within which the SSF Guidelines will gain traction.

Since its first democratic elections in 1994, South Africa has developed an extensive legislative and policy framework that gives the SSF Guidelines traction within the constitutional framework within which fisheries governance and marine resource conservation is located in this country. An analysis of the key principles and provisions in the SSF Guidelines provides clear evidence that implementation of the SSF Guidelines in South Africa is not an optional, voluntary gesture of goodwill on the part of either the South African government or of any other actor in the fisheries sector. Rather, the SSF Guidelines conveniently bring together a range of pre-existing human-rights obligations and policy guidelines that have relevance for the SSF subsector.

Ecosystem approach

From provisions to secure gender equity for women in fisheries and eliminate all forms of discrimination to secure decent and fair labour standards to the need to adopt an ecosystem approach to fisheries, the SSF Guidelines are mirrored

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are located are invariably skewed against these communities and, in particular, against women and other vulnerable and marginalized groups. Integral to the SSF Guidelines’ goal of targeting the most vulnerable and marginalized persons and eliminating discrimination will be the need to have adequate understanding of these power relations and intersectionalities that shape access to, and control over, marine and other resources. These intersectionalities include issues such as gender, race, ethnicity, age, labour and migratory status, disability and geographic location, amongst other historical and specific power relations relevant in each national context.

In order to contribute towards the development of a sound body

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in national legislation and policy even though this framework was developed prior to the SSF Guidelines. The only significant gap in this national framework relates to specific provisions to protect the rights of indigenous peoples and migrant fishers. These groups may be vulnerable. Although the Equality Clause of the Constitution outlaws discrimination, and most indigenous peoples would be protected by various clauses in the Constitution, the specific rights and needs of indigenous peoples have not been highlighted and South Africa has failed to implement the 2007 UN Declaration on the Rights of Indigenous Peoples.

However, the South African Constitution obliges the State to take cognisance of international law and as the rights of indigenous peoples are now international customary law, this would apply. In addition, although the Constitution recognizes the rights and freedoms of all people in the country, even if they are foreign nationals, there are no specific mechanisms to ensure the protection of migrant fishers. Migrant fishers, particularly if they are found to be in South African waters illegally, might be very vulnerable as the Constitutional provision protecting all people in the country is dependent on being legally resident in the country. Over and above the two gaps mentioned, the spirit of the SSF Guidelines is clearly evidenced in South Africa's national legislation and policy developed on the foundation of the human rights enshrined in the country's Constitution.

Notwithstanding this very enabling legislative and policy framework in South Africa, interviews with key respondents drawn from SSF fishing communities, fisher leaders, government, NGOs and research institutions, together with a review of current literature, provide evidence that there are huge challenges facing the SSF subsector in South Africa. In particular, a range of unequal power dynamics and social relations shapes the location of small-scale fishers within the political economy

of fisheries and impacts the way in which both the international SSF Guidelines and the recently promulgated South African Policy on Small-scale Fisheries (SSF Policy) are being interpreted and implemented.

Racial, class and gender-based relations, coupled with historical rural-urban divides, continue to shape the experiences of different groups of small-scale fishers and their communities. Many fishers up and down the coast express a sense of despair in the face of what appears to be deepening levels of inequity and marginalization within the fisheries sector, with the associated social vulnerabilities that accompany this: high levels of poverty, debt, corruption, food insecurity, sexual violence, drug and alcohol addiction, crime, conflict and depression. Environmental changes in the marine and coastal environment exacerbate their vulnerability to these political and social challenges. While the problems that are cited by the fishers on the western seaboard differ from those in the two coastal provinces on the eastern seaboard, a common theme expressed by fishers, NGO activists and researchers is a perception of a growing gap between the visionary and aspirational human-rights-based content of the South African Constitution and the reality that they face on the ground every day.

The industrial fisheries subsector has historically dominated the catching, processing and marketing of all high-value species in South Africa. Under the apartheid regime, this subsector was

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A woman inter-tidal mussel harvester, Dwesa Cwebe, in Eastern Cape, South Africa

controlled by white capital. Artisanal and subsistence fishers, predominantly from black communities, were systemically marginalized and dispossessed of their tenure rights to marine resources. SSF communities question the lack of real redress for the racially-based dispossession that many of them experienced during apartheid. Notwithstanding some policy attempts to transform the unequal racial structure of the industry in the past two decades, the continued close relationship between the ruling party, the fisheries administration and the captains of industry creates the co-management conditions required by the industrial subsector to ensure that they benefit from any policy that is introduced to address the needs of the SSF. Their continued control over the means of production, made possible through the failure of the Department of Agriculture, Forestry and Fisheries (DAFF) to apportion adequate resource access to the SSF and to introduce mechanisms to enable SSF

continue to influence how men in fisher organizations and communities perceive women's rights to resources and to controlling these resources. This impacts women most heavily along the western seaboard where the high-value industrial fisheries have been dominated by men. Women were largely restricted to employment in the processing subsector. In the current processes aimed at implementing the SSF Policy, women are required to demonstrate ten years of active involvement in the industry in order to be eligible for membership of an SSF entity with a fishing right. However, their years of employment in the processing establishments are not considered relevant. This is an issue that women fishers are determined to challenge in the coming months, drawing on the Constitution and the SSF Guidelines.

The historical marginalization of black fishing communities, particularly in two of the coastal provinces of the country, namely the Eastern Cape and KwaZulu Natal provinces, where the apartheid regime established designated areas where African persons could reside, continues to shape the current context. SSF fishing communities in these provinces remain ultra-vulnerable due to their lack of voice and the unequal provision of services in these regions.

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communities to control a segment of the value chain, leaves the SSF very vulnerable. It would appear that notwithstanding State commitments to the SSF Guidelines and the SSF Policy, and hopes for a paradigm shift in favour of a different model of fisheries exploitation that would enable redistribution of marine resources to poor SSF communities, the policy trajectory for the future is 'business as usual' in South Africa.

In addition to key class and racial fissures, the SSF subsector is structured by patriarchal gender relations which continue to shape the underlying dynamics in communities. Whilst superficially an impression of shift is created by the visibility of a few prominent women leaders, deep-seated patriarchal relations

Dispossession

During the height of apartheid, the State embarked on racially-based spatial planning which dovetailed with the expansion of the conservation estate. More than half of the existing 22 coastal Marine Protected Areas (MPAs) were established adjacent to terrestrial reserves that involved racially-based forced removals of local coastal communities. Despite most of these communities submitting land claims in terms of the Land Restitution Act post-apartheid, there has been no recognition of their dispossession from their traditional fishing grounds and marine resources. Land claim settlements have failed to lead to restitution of their pre-existing

tenure and access rights. The heavy-handed attitude of the conservation authorities in these provinces towards the small-scale fishers who they do not accept as having legitimate tenure rights now exacerbates their socioeconomic marginalization.

Communities living in, or adjacent to, MPAs and the iSimangaliso World Heritage Site are most vulnerable in this regard. Lack of high-level inter-sectoral policy cohesion and a total absence of policy guiding the management approach to SSF fisheries in these areas is resulting in extensive conflict between the fishing communities and the authorities. Several local fishing communities living adjacent to MPAs have legal action against the State pending in order to secure their customary tenure rights. The fishers have drawn on the SSF Guidelines and the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT) in their court papers.

In the light of the fact that South Africa already has a legislative and policy framework that prescribes the implementation of the principles inherent in the SSF Guidelines, the question as to why there is such a gap between the provisions in the SSF Guidelines (and the Constitution and the SSF Policy), and the actual *de facto* rights enjoyed by SSF fishers on the ground arises. It is apparent that whilst there are *de jure* provisions to protect and promote the SSF subsector, the interpretation of these legal and policy provisions into practice results in *de facto* discrimination against poor SSF fishing communities. Several characteristics of the current situation enable this failure to implement the SSF Guidelines.

A powerful neoliberal economic agenda influences the location of the SSF subsector in the political economy of the country and shapes the perceived value and role of the SSF subsector. The industrial subsector commands considerable control over fisheries policy and influences the States' approach to tenure rights,

resource management, marketing and trade, and research support to the sector. The lack of data and information about the SSF subsector is an outcome of this marginalization and further deepens the marginalization of SSF communities.

As one of the consequences of this agenda, organization of fishing communities and fishworkers is fragmented and there is a lack of solidarity amongst actors in the SSF subsector. Small-scale fishers have historically lacked political awareness and voice. They have also been slow

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to build community support for their struggles and so fisher organization in many coastal communities is limited, resting largely on a thin layer of fisher leaders with few cross-sectoral alliances and little solidarity from other small-scale producers or political groupings. Although one of the key SSF groupings has been very involved in the international advocacy activities leading to the negotiation of the SSF Guidelines, the majority of the SSF subsector lacks awareness of the SSF Guidelines and the protective provisions within both the Constitution and the Guidelines that they could use to defend their rights.

Democratic practice

A major contributing factor has been the government's failure to put mechanisms in place to ensure transparency and accountability within the fisheries administration. This has created a culture in which corruption, cronyism and political influence has thrived. This lack of ethical governance is mirrored in some of the fisher organizations, where a lack of democratic practice and sound checks and balances have enabled several individual leaders to become involved in deals with marketers and the industrial subsector

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Local fishers at Dwesa Cwebe MPA. Artisanal and subsistence fishers, predominantly from black communities, were systemically marginalized and dispossessed of their tenure rights to marine resources

that compromise their legitimacy. In this environment, the lack of legitimacy of both government and community-level institutions has enabled a pervasive perception of lawlessness and inequity.

The analysis conducted by ICSF on the SSF subsector in South Africa provides useful insights into the key obstacles that prevent full and effective implementation of the SSF Guidelines. It suggests that an enabling legislative and policy framework is a necessary precondition for implementation of the SSF Guidelines but in and of itself is not sufficient to secure their realization. Rather, a multi-pronged approach that builds local-level organization and democracy, advocacy capacity and political power is key to ensuring that the SSF Guidelines are implemented. The SSF Guidelines will be achieved through the bottom-up advocacy struggles and strategies of small-scale fishers and their supporters and through them leading by example.

Whilst there are no government or civil-society initiatives to track implementation of the SSF Guidelines in South Africa underway as yet, this research has highlighted the importance of contextual analysis

prior to the implementation of the SSF Guidelines. If goals such as promoting poverty eradication and food security, eliminating discrimination and ensuring inclusivity and equity are to be achieved, then it becomes necessary to ensure that a baseline understanding of the social relations and dynamics in the fisheries sector is available and that strategic priorities are identified accordingly across all actors, both state and civil society. This study underscores the need to ensure that unequal power relations are placed centre stage in any plan of action in order to ensure that the human rights and freedoms of small-scale fishing communities are realized. 3

For more

icsf.net/en/monographs/article/EN/150-social-relation.html?limitstart=0

Social Relations and Dynamics Shaping the Implementation of the Voluntary Guidelines on Small-scale Fisheries (SSF Guidelines) in South Africa