

Course Correction Overdue

Chile's new fishery law governs the rights of access to, and use of, resources by small-scale fishing communities

If we want everything to remain as it is, everything needs to change.

– Il Gattopardo. Giuseppe Tomasi di Lampedusa, 1957

Chile is located in the Southeast Pacific Ocean. It is one of the five most productive and bio-diverse marine areas on the planet. Fishing and aquaculture constitute the second largest sector of the Chilean export economy, with an annual production of 3.4 million tonnes, valued at US \$8.5 billion.

This Latin American country is the third largest global exporter of fish, crustaceans, molluscs and marine invertebrates, after Norway and China. It is also the world's second largest producer of fishmeal, the fifth largest exporter of seaweed for human consumption, the leading exporter of *mithilids* (bivalve molluscs), the second largest producer of industrially farmed Atlantic salmon (*Salmo salar*) and the leading producer of Coho salmon (*Oncorhynchus kisutch*). Both species of carnivorous fish were introduced into Chilean waters from the Northern hemisphere.

After 50 years of operating under an orthodox neo-liberal economic model, the traditional artisanal fishing sector has experienced cultural, technological and social transformations. Profound changes have resulted from the imposition of an extractivist and export-oriented model by the military dictatorship from 1973 to 1990. Subsequent civil governments strengthened this after the controversial parliamentary negotiation that privatized Chilean fisheries through the enactment of Law 20,657 in January 2013.

A law for the rich and powerful

This fishing and aquaculture law eliminates the state as the assigner

of property rights, access and use of the country's fisheries. It transfers this capacity to the market through the creation of a system of fishing licences of indefinite duration—20 years and automatically renewable—and individual transferable fishing quotas (ITQs), bankable and tradable in any legal context. This has affected

Recognize that fisheries and coastal territories constitute a common patrimony that cannot be handed over as private property of an undefined nature and made tradable in any legal context

the conservation of aquatic ecosystems and biodiversity. Today, 53 per cent of Chilean fisheries are over-exploited and collapsed, impacting on the food security and rights of small-scale fishers, coastal communities and Indigenous Peoples.

Law 20,657 only allows the owners of legally registered industrial vessels and semi-industrial boats called *armadores* to have access to fishing licences and annual fishing quotas. These 'artisanal' boat owners represent 13 per cent of the approximately 97,000 small-scale fishers officially registered, while the so-called 'fishermen' themselves sell their labour to the *armadores*.

Ten per cent of the total fishing licences were given to 12,901 artisanal boat owners. This fleet, classified as artisanal, includes the so-called *lanchas* that are 12-18 metres in length and have a hold capacity of up to 80 cubic metres. These semi-industrial boats represent 72 per cent of 'artisanal' fishing landings.

Similar exclusion of rights to fishing licences and quotas was

This article is by Juan Carlos Cardenas N. (jcc@ecoceanos.cl), Executive Director, Ecocéanos Centre, Chile

applied to the Indigenous Peoples who inhabit the coastal territories; they include the Changos, Mapuches, Lafkenches, Williches, Kawesqar and Rapa Nui. This has allowed business and trans-national groups to buy, sell, rent, mortgage and even inherit these rights, facilitating corporate mergers, trans-nationalization and economic concentration.

The authoritarian productive and social restructuring of the Chilean fishing sector allowed every neo-liberal civilian government of the last decade to be able to implement technological and modernization agendas. By opening up extensive coastal territories and their valuable biodiversity to investment flows, supported by the implementation of 33 free trade agreements, and by providing access under preferential conditions to 65 per cent of the world's population, Chile has consolidated its role as one of the main exporters of marine products to global markets.

A society's spine

Along the 4,200 km of coastline and 30,000 km of protected coastline, there are 101,245 artisanal fishermen whose production is equivalent to 32.7 per cent of Chile's fishery and aquaculture landings. The deep legal, economic and social changes that have occurred over the last decades in the fishing sector have affected the tenure rights for small-scale fishing communities—socially equitable and culturally appropriate—to marine fishery resources and coastal areas, as well as their autonomy to process and sell their products.

In terms of production, Chilean artisanal fishing has been reorienting the destination of part of its catches, becoming a growing supplier of raw materials for industrial fishing companies and processing plants for fishmeal and/or export, while coastal communities are turning to small-scale marine farming, services or tourism.

In this scenario, the increase in women's participation has given great dynamism and adaptability to the small-scale fishing communities. Currently 22,063 women are owners of boats, fishers, divers, seaweed and mollusc gatherers and fish smokers; they bait fishing hooks; they work

in the marine farming, services and tourism sectors. In addition, there is a growing development of small-scale aquaculture activities linked to the production of macro-algae, molluscs and bivalves in 800 cultivation centres. Their production is destined for local markets or intermediaries.

Relief, finally, or...

In September 2022 the Maritime Interests and Aquaculture Commission of the Chamber of Deputies declared the Law 20,657 on fishing and aquaculture “undeniably null and void”. This decision was a response to a decade of sustained struggle by citizen organizations and coastal communities, which had previously led to the conviction of parliamentarians for bribery.

The parliamentary discussion for a new fishing law will begin in June 2024. Given the non-transparent negotiations between the current government and the actual fishing-aquaculture business community, it is anticipated that there will be no fundamental changes. Only secondary aspects are expected to be changed, consolidating a growing integration of the small-scale fishing sector with the industrial sector and export models, consolidating the greatest plundering of rights and public goods that has occurred since the end of the civil-military dictatorship.

In this challenging scenario, the following are some of the demands made by citizens and coastal communities to recover the rights taken away from them by Law 20,657:

- Consider aquatic ecosystems as legal subjects of constitutional law, ensuring the protection of their genetic heritage, and the integrity of their structures, components and functions that are the basis of existing life cycles, as well as the restoration of their degraded biodiversity.
- Restitute to the State the absolute, exclusive and imprescriptible dominion over the Chilean fishing patrimony, restoring its capacity to assign property rights, access and use of the country's marine resources and coastal areas.
- Eliminate the undefined duration of fishing licences and ITQ systems,

ELDESCONVIERTE/MACARA



Valparaíso artisanal fish landing centre. Along the 4,200 km of coastline and 30,000 km of protected coastline, there are 101,245 artisanal fishermen whose production is equivalent to 32.7 per cent of Chile's fishery and aquaculture landings

oriented towards a fishing quota market and share transactions on the stock exchange in which fisheries are only perceived as negotiable goods, the exclusive property of investors and owners of licences and fishing quotas or aquaculture concessions.

- Recognize that fisheries and coastal territories constitute a common patrimony that cannot be handed over as private property of an undefined nature and made tradable in any legal context.
- Categorize semi-industrial boats as artisanal, which will allow them to sell their fishing quotas or transfer their catches within the protected first fishing mile to industrial companies and their processing plants.
- Restitute the rights of access to, and use of, fisheries and hydro-biological resources of the artisanal fishers themselves (non-owners of boats), and the Indigenous communities that have been expropriated by the privatization of Chilean fisheries.
- Defend and ensure implementation of the Coastal Spaces of Native Peoples (EMCPOs in Spanish) initiative, through the collective community participation of Indigenous Peoples to use ancestral territories and aquatic resources of

common property, to protect the environment, respect biological diversity, and provide governance to the coastal zone.

- Ensure mandatory funded management plans for all fisheries with closed access. These plans must be binding with management decisions, and be subject to periodic evaluations in the Fisheries Councils and the Fisheries Management Committees. This will ensure transparency and full participation of coastal communities. After decades of intense commercial exploitation, there are still 17 commercial fisheries for which the Chilean State lacks information about those who are responsible for management.
- Strategically value small-scale fisheries, aquaculture, algae collectors and shellfish gatherers as key components in the implementation of policies for food security, public health, poverty alleviation and regional coastal development.
- Secure the first five coastal miles as an exclusive reserve area for artisanal fishing. Ensure that individual quotas are not granted in benthic fisheries and also recognize the basic unit of the small-scale boat owner, assistant diver and the

SUBPESCA



36

Pelluhue, Bio-Bio Region, Chile. The deep legal, economic and social changes that have occurred over the last decades in the fishing sector have affected the tenure rights for small-scale fishing communities—socially equitable and culturally appropriate—to marine fishery resources

shellfish diver. The state must also incorporate the gender perspective in policies for strengthening artisanal fishing and small-scale aquaculture communities, and implement a ban on trawling in eight key fisheries, several of which have collapsed (like hoki and Southern blue whiting) or are over-exploited (common hake, Southern hake and golden conger).

- Develop a state policy to increase domestic consumption of high-quality marine proteins by the Chilean people, weakened by five decades of neo-liberal export policies. The Chilean population has an average consumption of only 12.7 kg of fish per inhabitant per year, which is below the world average of 20.4 kg, according to the FAO. This measure, under a public health approach, should be complemented with the reduction of the high volumes of pelagic species, and some demersal species, to produce fishmeal and fish oil for the trans-national animal feed industry and pet animals.
- The state should promote policies related to the production, distribution and consumption of

nutritious, safe and economically accessible foods of aquatic origin, preferably produced at a local and/or regional level, corresponding with the diverse cultural identities and traditions of the country. The following should be declared as fisheries exclusive for the artisanal sector: Chilean hake (*Merluccius gayi*), Southern hake (*M. australis*), pilchard (*Strangomera bentincki*), anchovy (*Engraulis ringens*), golden kingklip (*Genypterus blacodes*) and squid (*Dosidicus gigas*).

All these demands can be met. A democratic, sustainable and equitable fishing policy can be created to ensure gender and social rights only through the mobilization of citizens and communities. **3**

For more

Undoing a Great Wrong

https://www.icsf.net/wp-content/uploads/2024/02/Sam_90_art-08_Report_Undoing-a-Great-Wrong.pdf

Chile will have a new Fisheries Law in 2024

<https://weareaquaculture.com/politics/chile-will-have-a-new-fisheries-law-in-2024>

New General Law on Fisheries and Aquaculture No. 20/657, Chilean Government

https://www.subpesca.cl/portal/617/articles-60001_recurso_1.pdf