

ORGANIZATION, LEGISLATION AND THE RIGHTS OF FISHERWORKERS IN THE PHILIPPINES

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It reflects the Philippine government that its fishing laws and policies provide mainly for the use of fishing and aquatic resources and not primarily for the rights of fisherfolk. The provisions in PD 704, the Fisheries Decree of 1975, that directly affect fisherfolk are prohibitory, and other policies constrict access to traditional fishing grounds.

There are basically six reasons why fisherfolk perceive PD 704 as contrary to their interests.

First, PD 704 favours the use of fishing resources to generate capital and stimulate investments instead of satisfying basic needs. This is a shift from Republic Act N- 3152 of 1963, geared towards self-sufficiency.

Premised on the belief that Philippine fishery resources remained largely untapped, PD 704 attempted to capitalize on the 17642 kilometers of coastline and 212 million hectares of marine and fishery resources.

It was thought that by playing in the arena of world trade and investments, the Philippines would "develop" by amassing investments, dollar-earnings and foreign-led industries. The benefits of which would "trickle down" to millions of subsistence Filipinos. This policy discriminated against fisherfolk in favour of large capital investments in the fishing industry and competed with and limited fisherfolk's access to their resources.

Second, the "trickle-down" effect did not materialize. In fact, PD 704 had disastrous results. The world market did not "conform" to expectations and the new approach also disturbed traditional production relations without providing stabilizing mechanisms. The only ones that profited from the policy of massive commercial exploitation of fishery resources were big investors, corrupt government officials and their cronies.

Although total production improved by 500 000 tons in 1989, it was due more to the frequency and efficiency of commercial fishing operations, with incentives under PD 704, and less to the abundance of fishery resources.

These developments in the fishery sector reflect the global consequences of multinational investments in national and regional production areas.

Third, massive commercial exploitation resulted in environmental resource degradation. Evidence of this is the fact that 25 of the 45 traditional fishing grounds are overfished and the estimated 4.5 million hectares of mangroves in 1920 are reduced to only 100000 hectares. Consequently catches dipped and average monthly income was estimated to be only P1973.00, far below the poverty level pegged at P2714.00 for a family of six.

Sheer desperation has made more and more fisherfolk turn to fishing with dynamite and toxic substances. Even the dangerous muro-ami has been a viable alternative for thousands from coastal communities.

Fourth, PD 704 centralized fishery management in the Manila-based Bureau of Fisheries and Aquatic Resources (BFAR), discouraging the participation of fisherfolk in managing resources. Local government units' jurisdiction over municipal waters became nominal, since local ordinances and grants of fishery concessions had to be approved by BFAR. This doomed many local initiatives to immediately solve site-specific problems.

Fifth, the violation and offenses punished by PD 704 could not be strictly enforced. The perception that violations were "victimless", since it is a crime against the State coupled with the general ignorance of the police and other government officials, made the strict implementation of PD 704 impossible, with fisherfolk on the losing end.

The power to compromise PD 704 violations or accept settlements from commercial operators by BFAR and the Department of Agriculture Secretary denies the fisherfolk equal protection of the law.

Sixth, government-sponsored and imposed fishery projects are undertaken with little regard of cultural

considerations and community needs. Government also involved fisherfolk in law enforcement by deputizing them as fishwardens. But in implementing the law, they have been harassed and threatened by commercial exploiters and dragged into legal controversies without even minimum legal assistance from BFAR, which had deputized them in the first place.

An unfolding process

Against this backdrop, the formation of fisherfolk organizations, alliances and movements gradually but steadily took shape. The once docile fishermen, used to the bounty and goodness of the seas, started to fight for their rights to the seas in municipal halls, in the streets, government offices, in Malacanang and in the halls of Congress. Their formation at specific points in Philippine history is reflective of the specific situation in the country. The listing of fishermen organizations that have been organized after Martial Law to date, is impressively long. Of this list, the following are regional and national organizations/ movements in the order of their establishment: The Batillos (fishing port) of Navotas, 1973; Kammmpi, 1977; Calariz, 1980; Bigkis-Lakas, 1986; Hummabi, 1987; Pamalakaya, 1987; Visfac, 1989 and Nacfar, 1990.

While their organizing strategies and approaches vary, depending on their orientation, they are united in their

vision of a free, clean, just, and humane fishing environment.

It is worth noting that the nature and fervour of the fishermen's struggle started from a practical concern for just pay and working conditions; the elimination of illegal fishing activities and their deputizing as fishwardens; their right to organize and to participate in matters affecting them, and access to the means and fruits of fish production. Theirs is a more global ecological concern for protecting, developing, controlling and managing their fishery resources. This environmental aspect in the struggle of fishermen for their liberation, as well as that of their marine resources, has ushered in a new spiritual dimension, thereby elevating their struggle to a more holistic and global view of man's relatedness with his Creator, the state, his fellowmen, and nature. It is perhaps: this spirituality that shall eventually unite us at the global level.

This phenomenal growth in social consciousness among fisherfolk could likewise be viewed from the perspective of the politization taking place in the Philippines at all levels, especially at the base of the socio-economic political pyramid and among those concerned with development (i.e.. the Church, schools, professional groups, non-governmental organizations and financial institutions). Their combined efforts, in partner-



ship with the marginalized sectors, account for growing social consciousness and mass actions for alternative development.

The alternative

The new democracy brought about by EDSA Revolution with the Aquino government assuming power fueled the hopes of the fisherfolk. The 1987 Constitution provided for the exclusive enjoyment and use by Filipino citizens of fishery resources (Art. XII, sec. 2, par. 2) and for the protection of fisherfolk's right of subsistence through access to communal fishing areas (Art. XII, sec.7). The satisfy-basic-needs-first approach enshrined the promise and the mandate of the new government.

The fisheries code firms up the fishermen's resolve to take matters of their subsistence—their life and death—into their own hands by asking the government to delegate fisheries management to them. The reasoning seems ironclad: centralized administration in Manila at the Bureau of Fisheries and Aquatic Resources has left unattended most local concerns about enforcement and resource allocation. It only succeeded in facilitating the commercial exploitation of fisheries, which was good for the few entrepreneurs and capitalists, bad for the environment and worse for subsistence fishermen.

The fishermen now want the government to implement the policies that the fundamental law already spelled out: plan and implement the sustainable use of fishery resources to satisfy basic needs first and build a truly Filipino fisheries industry.

Central to this proposal is the empowerment of fisherfolk, through local fisheries resource management councils, to enforce fishery laws and see to it that their fishing areas remain viable and free from the ravaging incursions of commercial fisheries. They would leave the management of more distant, more capital- and technology-demanding fisheries at the inter-island and national levels to those who can afford it and to the government. To oversee all fisheries, they suggest the creation of a national fisheries resource management council, comprised of representatives of the various levels of resource management councils, who would guarantee that issues at specific fishery sites would be articulated and attended to.

Prospects of change

By the second half of 1988, this new proposal was already filed as legislation in Congress as House Bills 9580 and 21120 in the House of Representatives, and as Senate Bills 648 and 711 in the Senate. For some time, fishermen turned lobbyists basked in the newfound glory of speaking at legislative hearings and of trading ideas, and even barbs and insults with legislators and officials from the executive branch.

Their bills were, after all, more comprehensive in scope and bigger in the sheer bulk of their provisions than any of the decrees that Mamos issued, and were more thought-out than most of the legislative proposals the men and women in Congress churned out. In fact, only SB 804, Senator Agapito Aquino's counterproposal of a fisheries code, came close to matching the fisherfolk's idea on the demarcation of fishery areas and users based on the mutually complimentary goals of social justice and environmental protection. And in contrast to the other bills that proposed bigger bureaucracy and more "formal" government presence in the administration of fisheries, the fisherfolk's fisheries code sought to decentralize power to community-based councils. At least these proposed councils would not have distance from the resource as an excuse for inefficiency. It seems hardly disputable that those whose very livelihood depends on fisheries would also take the best care of this resource. For if they mess it up, they imperil their own lives and futures.

The steady build-up of official resistance to the fishermen's proposed code was initially obscured by the novelty of their legislative proposal and of the fishermen's hobnobbing with the powers-that-be. Yet to the objective observer, that resistance should have been clear enough from the start, even from the questions and clarifications demanded by the staffs of the legislators who eventually sponsored and supported the fisherfolk's bills in Congress.

The politicians with national ambitions are partial to the broad picture, but whether breadth of vision also means depth of perspective is another question. And so it was -and is- easy to point out the obvious flaws of the fisheries code: its proposal for the small-scale use of near-shore areas, the most productive fishery areas, run roughshod on the production requirements for the Philippines' exports. Its proposal for the creation of resource management councils at the local and national levels did away with the "experience", "expertise" and manpower of the Bureau Of Fisheries and Aquatic Resources. Veiled in the criticism that not all fishermen in the various fishery areas are organized to manage fishery resources is the pointed accusation that an ordinary fisherman, unschooled and unlettered, could not properly take care of resources that take bureaucrats years of formal schooling to comprehend.

And so after four years of deliberation, the Senate and the House of Representatives produced their own version of the fisheries code. A corn promise in both chambers, leaving for future legislative action the question about the structure of fishery administration, paved the way.

The silence of the fishery code versions of both chambers of Congress on the fishery administrative structure was not sufficient, however, to unite the legislators

at the bicameral conference committee level and pass a harmonized fisheries code. As of this writing, objections to the approved versions of the code, especially on the part of Congressmen, surfaced at the bicameral conference and doomed efforts to pass at least the policies part of the code before Congress finally adjourned.

A small chance remains that during the remaining days of the Congress the code may still be enacted into law. This chance comes from the fact that President may call Congress for special sessions, and that bicameral conference committee meetings can be held even if Congress is not in session. However, the election frenzy presently hounding the President and the legislators, who all have significant personal stakes in the outcome of the election, may finally hammer the last nail to the coffin of any prospects of long-term law reform.

To fisherfolk, these developments are not completely unexpected. They have waited for so long that a few more years of rather unfruitful struggle in the legislative arena will not break the back of their resolve to effect changes in their lives and their lifeline.

Fisherfolk realize that the struggle for change can be waged in different milieus - their own localities included.

It is this realization and their confidence in the strength of their growing organizations and the justness of their cause that will sustain them. Laws, after all, are only as good as their implementation. If fisherfolk go ahead and transform the issues plaguing their means of subsistence, the law would simply remain a spectator, hopeless to stand in the way of changes long warranted by intolerable and unjust social conditions on the fisheries front.

At fisherfolk's own localities, in particular, in most of the 12 major bays and gulfs declared overfished by the government, unrelenting petitions from fisherfolk have convinced the Department of Agriculture and BFAR to issue fishery administrative orders to close these bays and gulfs to destructive and overly-exploitative commercial fishing.

A visit to fisherfolk communities in Lamon Bay in Cuezon Province, under the Bigkis-Lakas network, yields hope that all is not lost for subsistence fisherfolk and fishworkers. The rehabilitation of an over-exploited fishery and its return to its former productive condition testify to the great results possible if only government listened to the people, took to heart their recommendations for protecting, conserving and developing local resources, and harnessed their collective strength and resolve to implement these recommendations. □