

The Relic of Apartheid

A research report uncovers the historical injustice meted out to Indian-origin subsistence fishers in South Africa who have to deal with the restrictions brought on by the COVID-19 pandemic

In March 2020, the South African government declared COVID-19 a national disaster under the Disaster Management Act No. 57 of 2002. This introduced, overnight, regulations that prescribed the activities regarded as 'essential' to society. These lockdown regulations set in motion a series of administrative reactions that have revealed the deep-seated and stubborn inequalities in South Africa and the underbelly of the post-apartheid state. The impacts of these regulations were devastating for a specific groups of subsistence fishers from Durban in the province of KwaZulu Natal (KZN), along the eastern seaboard.

situation reflects the plight of many poor South Africans, worsened by the regulations brought in to curb the pandemic. The regulations enacted as a response to the pandemic, however, placed a spotlight on the history of Indian subsistence fishers in this region of South Africa; it revealed the way in which fisheries legislative and policy reforms in South Africa excluded them.

Numerous policy processes have failed to accommodate the diversity of fishers and fishing communities that exists under the umbrella term 'small-scale fisheries'. In addition, the desire for neat policy categories of fishers denies the dynamic and messy lived reality of fishers; they live in a seascape without clear-cut categories of work and employment. A research report titled 'Cast Out: The systematic exclusion of the KwaZulu Natal subsistence fishers from the fishing rights regime in South Africa' was commissioned in 2020 by the South Durban Community Environmental Alliance (SDCEA). The report highlights the history of these fishers. It unpacks the way that they have historically crafted freedom and cultural identity through their subsistence strategies—as also the policy and administrative failure to accommodate them.

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These fishers include subsistence fishers of Indian origin, joined by the non-racial community of poor, subsistence line fishers, forming the KZN Subsistence Fisher's Forum (KZNSFF). They find themselves caught in a net of regulatory distortions. Under the lockdown, they were told by the Deputy Director General of Fisheries that 'subsistence fishers' was no longer a legitimate category in South Africa. It transpired that they should have applied for recognition as 'small-scale fishers' in previous policy processes, if they had hoped to be legally recognized as 'essential services'.

Given their illegal status under the new regulations, these fishers were unable to turn to their natural commons to feed their families, nor were they eligible for state food parcels. Their

A unique contribution

The earliest record of shore-based subsistence line fishing in KZN is that of indentured Indian labourers of the 1860s who fished on the shores of the city of Durban. These bonded workers came from India to the Colony of Natal to work on the sugar plantations, bringing with them both their fishing skills and their close relationships with the ocean. Some of the indentured labourers were brought specifically for their seafaring, boat-building and



KwaZulu Natal subsistence fishers protest their exclusion in Durban, South Africa. The impacts of new regulations were devastating for a specific groups of subsistence fishers from Durban along the eastern seaboard

fishing skills to assist the Port Captain and to provide fish rations for the workers on the sugar plantations.

So began the proudly cherished cultural tradition of the rod-and-reel subsistence line fisher along the harbour and beachfront of Durban. More than just a pastime, this practice represented a means for these labourers to express their independence from the bondage of their contracted indenture, whilst also ensuring adequate food for their families. Fishing assisted in creating a livelihood in this liminal zone on the edges of indentured labour. These early fishers used fishing and the social relations around it to craft a cultural response to the harsh environment of indenture and colonial racism. Once freed from their indentured labour contracts, many of these workers and their families settled around Durban harbour at the mouth of the Umgeni River. It was in these mud marshes and mangroves on the edge of the sea that many Indian families established their livelihoods.

For many families rod-and-reel fishing became a means of subsistence; for others seine-net fishing steadily

developed into a flourishing enterprise. In addition, these fishers harvested a range of other marine resources, both for food and for medicine. Both men and women engaged in this activity, usually held day jobs and worked this trade by night to supplement low incomes.

These state administrative processes linked to policy implementation were shaped by the prior, systemic racism inherent in the provincial approach to subsistence fishers.

The Indian migrants had a significant impact on the culture of colonial Natal. They built beautiful local temples and established schools in their midst, fish markets sprung up, and a distinctive seafood culture, flavoured with Indian spices, developed. These Indian cultural influences are still tangible in Durban today, a part of what makes the city unique in South Africa.

Food security

Despite the importance of their contribution to food security, culture

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Fishers inspect the nets during the sardine run on the KZN coast, South Africa. The authorities took the view that subsistence fishing should be an occupation of last resort, and that these fishers must be shifted into alternative livelihoods rather than supported to flourish

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and development, these early fishers experienced increasing racism and class-based prejudice. As white residents of Durban began using the harbour area and surrounding beaches and waters for recreation, they started complaining about the Indian fishers in the area. Drawing on racist stereotypes, such complaints began as early as 1877, growing steadily in the subsequent two decades.

The archival evidence of these early expressions of racism towards Indian fishers and subsequent policy responses aimed at restricting these fishers suggests that just over a decade after they arrived in the Natal Colony, they were subjected to intense discrimination and material exclusion. Over time, these exclusions only grew worse. Half a century later, the nationalist apartheid government legislated racial segregation and discrimination. Using the notorious Group Areas Act of 1950, Indian families were forcibly removed from the coastal locations to designated 'Indian' townships inland. This legislation robbed people of their dignity and access to their traditional fishing spots.

During colonialism and apartheid, subsistence fishers were not legally recognized. The governance of fisheries up until this time was firmly orientated towards the white-owned commercial, industrial sector which received considerable support from the state. Only commercial and recreational fishers were recognized. This despite thousands of fishers who subsisted on marine resources—either seasonally or on an ad hoc basis or as a safety net or on an ongoing basis throughout the year.

Avoiding detection

Despite their removal to areas over 20 km away from the sea, many of the descendants of this early community of Indian fishers continued to rely on fishing for their food and livelihood. Fishing was also the material basis of their cultural identity in South Africa, a source of local knowledge and intergenerational pride. These fishers shared fishing spots with the growing recreational fishing sector. As subsistence fishing was not legally recognized in South Africa prior to 1998, these fishers blended into this

recreational sector to avoid detection and punitive measures from the authorities.

The lines between recreational fishing and subsistence fishing have always been blurred.

Subsistence fisheries steadily grew in and around the industrializing centre of Durban during the colonial and early apartheid period, drawing in not only Indian but also coloured, black and poor white fishers who turned to the marine commons as a means of survival. Rural-based African subsistence fishers in Natal, predominantly of isiZulu and Thonga culture, also experienced

exclusions and forced evictions during these colonial and apartheid periods. In the decades immediately before the advent of democracy, thousands of subsistence fishers in rural Natal were harassed and arrested for fishing illegally, and treated as poachers.

Post-apartheid legal reforms and their impact

After apartheid was abolished, legal reforms included the development of a new statute to guide the governance of marine living resources. The Marine Living Resources Act of 1998 added the category of 'subsistence' fisheries to those of commercial and recreational fishing. A subsistence fisher was defined as one who fished for own consumption and was only permitted local sale of fish. Notwithstanding this legal recognition, the institutional arrangements for the implementation of this provision in this province, unlike in the other coastal provinces, rested in the hands of the 'KZN Ezemvelo Wildlife', the provincial conservation authority contracted to manage fisheries. Strongly influenced by the perspectives of marine scientists and ecologists working in the province, this authority took the view that, ideally, subsistence fishing should be an occupation of last resort, and that these fishers must be shifted into alternative livelihoods rather than supported to flourish.

This narrow approach to the recognition of subsistence fishers meant that in the period between 1998 and 2013, just over 2,000 subsistence fishers were legally recognized. The

rest of the subsistence fishers in the province, estimated at over 18,000, were forced to either purchase recreational permits or risk getting caught and prosecuted. Recreational permits, easily purchased at the local post office, are relatively inexpensive, and there are no means tests or limits on the number of recreational fishers, making this an open-access fishery. The distinguishing feature of this form of fishing is that these fishers may not sell their catch.

Elsewhere in the country small-scale, artisanal fishers protested the failure of the reforms to recognize their fisheries, arguing that the subsistence definition failed to accommodate small-scale fishers whose livelihoods included the modest sale of fish on a commercial basis. Following extensive advocacy action, the Equality Court

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finally ordered the then Minister of Fisheries to develop a new policy through a participatory process, one that would recognize the social and economic rights of traditional, small-scale fishers.

Slipping through the net

The Policy for Small-Scale Fisheries was finally gazetted in 2012. It included a definition of small-scale fishing that aimed to include a continuum of fishing, from those who fished on a subsistence basis to those who fished on an artisanal and small-scale commercial basis. The formal amendment of the statute to include this new definition of small-scale was followed by the promulgation of a set of Regulations for Small-Scale Fisheries in 2016. Shortly after this, the Department of Fisheries embarked on a nationwide process of rights application and verification. These state administrative processes linked to policy implementation were shaped by the prior, systemic racism inherent in the provincial approach to subsistence fishers. Instead of engaging widely with

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The KwaZulu subsistence fishers finally get access to their traditional fishing spots as users of the port. Policymakers will need to become far more comfortable with the dynamic and messy lived reality of fishers in a country where clear-cut categories of work and employment no longer exist

the range of subsistence fishers in the province, including those Indian fishers who held recreational permits despite the subsistence nature of their fishing, the department consulted narrowly. It ignored pleas to come and explain the policy for small-scale fisheries to the Durban-based KZNSFF.

The majority of these fishers noted that the policy and regulations were based on a community-based approach to fisheries that demanded the establishment of formal co-operatives. This system, they argued, made no allowances for their individual rod-and-reel subsistence practices. Nor did the system recognize the history of forced removals where Indian communities had been removed far from their traditional fishing areas and their coastal fishing communities had been fragmented and dispersed. Others were deemed not eligible for small-scale fishing rights due to the very narrow interpretation of dependence on marine resources applied by the

officials managing the process. If an applicant was not completely dependent on fishing for their livelihood then they were rejected.

As a result of this overly bureaucratic, technical approach to rights allocation and recognition, only 11,500 fishers in the entire country have been recognized as bone fide small-scale fishers deserving of rights. Despite the fact that the policy is closely aligned to principles inherent in the Guidelines on Small-Scale Fisheries, agreed upon by the international community and confirmed by the South African government in 2014, the implementation of the policy for small-scale fisheries has failed to create the conditions that would enable subsistence fishers to be recognized and supported. It was this mix of different subsistence fishers—together with those rural-based small-scale fishers who were left out of the policy process—who found their subsistence fishing and livelihoods described as

'non-essential' when the COVID-19 lockdown regulations were introduced. Overnight their means of feeding their families and selling a small amount of fish locally for basic necessities was outlawed.

Subsistence in the neoliberal Blue Economy

The Indian-origin fishers of Durban have led the resistance to the exclusion of so-called 'recreational' and real subsistence fishers by the COVID-19 lockdown regulations, arguing that the right to subsistence is linked to their right to human dignity. They have argued that the way in which the policy for small-scale fisheries is being administered and regulated, forcing groups of fishers to form business co-operatives and navigate considerable red tape to enjoy their historical rights, is unfair and exclusionary. They summon the history of their ancestors, the early Indian indentured workers, who proudly subsisted due to fishing, thereby asserting their independence and freedom.

The weight and power of the word 'subsistence', and the resistance to being classified as 'small-scale' in the current national policy among a segment of the traditional fishers in KZN, have their roots in this specific socio-cultural history of Indian fishers in the province since 1860. Holding on to the category of 'subsistence' is an assertion of human dignity and a direct response to the racist, ethnic and class-based prejudice suffered over the last 150 years. Stories of ancestors who experienced forced removals three times in their lifetimes are not forgotten in many fisher families.

Given this historical and intergenerational struggle for rights, it is not surprising that the descendants of these fishers in Durban continue to demand recognition as subsistence fishers. Nor is it surprising that these fishers view contemporary regulations and enforcement that deny them fishing access to public beaches, the Durban Port, and marine protected areas in the South Coast, as a continuation of their marginalization and exclusion in society. Contemporary forms of exclusion through neoliberal capitalism and its Blue Economy, and

the persistence of racism, are entangled with the distinctive oppressive practices of the apartheid past.

The research report calls for a serious engagement with these fishers by the relevant ministry, an engagement that recognizes the complex entanglements among culture, heritage and economic livelihoods. The current Small-Scale Fisheries Policy does hold promise for their inclusion as resource users and active members in South African fisheries management. However, to make the current policy inclusive, a more nuanced approach to the implementation of small-scale fisheries governance and management is required. Policymakers and management officials will have to understand the historical processes that shape some fishing practices. They will need to become far more comfortable with the dynamic and messy lived reality of fishers in a country where clear-cut categories of work and employment no longer exist.

There is substantive precedent for this in South Africa, where local and national government decisionmakers have recognized the precarious nature of work and how informal practices support livelihoods. There is also growing recognition internationally that urban fishers utilize multiple livelihood strategies to support families in cities, of which fishing is an important part. The current economic context of work and informality must be acknowledged and engaged with in a policy review. Similarly, the powerful continuities of culture across these dispersed communities, and their deep historical relationship with the ocean and coast, must be recognized. 

For more

Caught in a Net

https://www.icsf.net/images/samudra/pdf/english/issue_74/4214_art_Sam74_e-Art07.pdf

Living Off the Land

https://www.icsf.net/images/samudra/pdf/english/issue_62/3742_art_Sam62_eng-art01.pdf

A Weighty Responsibility

https://www.icsf.net/images/samudra/pdf/english/issue_64/3849_art_Sam64_e-art04.pdf

Cast out: The systematic exclusion of the KwaZulu Natal Subsistence Fishers from the fishing rights regime in South Africa

<https://static.pmg.org.za/201027Cast-Out-Policy-Document-2020.pdf>

Social relations and dynamics shaping the implementation of the voluntary guidelines on small-scale fisheries (SSF guidelines) in South Africa

https://www.icsf.net/images/monographs/pdf/english/issue_150/150_SSF_Guidelines_SAfrica_Jackie_29_MAR_2016.pdf

High & Dry. KwaZulu Natal Fishers Fight for their Rights

<https://www.fishingindustrynewssa.com/2020/11/02/high-dry-kwazulu-natal-fishers-fight-for-their-rights/>

Disaster Management Act 57 of 2002

https://www.gov.za/sites/default/files/gcis_document/201409/a57-020.pdf