Common-property fishing rights

Coastal resources for whom?

As powerful forces seek to industrialize and privatize the world's fish resources, it is time to counter the moves to dispossess coastal fisherfolk

Since the beginning of civilization, fisherfolk of coastal communities have laid claim to adjacent coastal resources. Their perceived rights to local fish stocks derive from the sustained use they have made of them. The importance of these rights has been intensified by the evolved economic dependence of coastal people on their fishery resources. However, it is becoming increasingly clear that coastal communities will be able to maintain their prerogatives of priority access to adjacent fish resources only by a vigorous collective defence of these resources as their common property.

Typically, most inshore fish resources have lent themselves well to harvesting by locally based small-scale fishermen. Their traditional rights to adjacent fish stocks are now threatened by two significant developments. One is the growth in power and ambition of industrial corporations in the fisheries sector. Such corporations have naturally dominated offshore and distant-water fishing operations, because of their ready ability to access the large-scale technology and financing needed for such operations. Now, in their drive for greater market share and enhanced security of raw material supplies, they are also seeking to increase their direct access to resource-rich coastal fisheries.

The second threatening development is the current drive for formalization of access rights to fish resources in a manner compatible with contemporary Western notions of corporate and individual private property. This is increasingly taking the form of attempts to 'privatize' the fisheries by commercializing ownership rights through transferable shares in the fish harvest. Such rights are referred to as 'Individual Transferable Quotas' (ITQs). An underlying objective of most promoters of ITQs is to ensure the dominance of market forces in arranging access to the fisheries, by allowing unfettered transferability and accumulation of quotas at unrestrained market prices. This has the effect of monetizing access rights at high capital values, thereby favouring corporations and wealthy investors. Using their financial power, they are able to bid up the price of quotas and buy up access rights to large shares of the harvest, either by outright quota ownership or by control through tied loans to individual operators.

The complexity and high cost of managing ITQ systems have made their application in the coastal fisheries of most developing countries impractical at this time. Here the corporate fisheries sector is more likely to impact the small-boat inshore fisheries through the incursions of larger company vessels into inshore waters or through their depletion of stocks that migrate between the inshore and the offshore.

The usual procedure in introducing an ITQ regime is to give a free allocation of perpetual quotas to the owners of currently operating fishing vessels, with the proviso that they (and future owners) have the right to sell these at any price obtainable in the market. The value of a set of quota holdings, even of a small-boat operator, in many fisheries may now run to tens of thousands of US dollars and, in some fisheries, may amount to well in excess of a million dollars.

Strong incentive

Such prices constitute a strong incentive for established fishermen to sell out if they are in an ITQ fishery, particularly if they are close to retirement. If they are in a fishery without transferable rights, they

may be persuaded to have their fishery converted to an ITQ system, so that they may also make a windfall gain when they retire.

ITQ systems are very difficult to dismantle, both for fiscal and political reasons. Once the rights have been traded, the new owners would claim full compensation for the rights they had bought if the government decided that the ITQ or transferable licence regime was not working well and should be abandoned. The fiscal burden might be insupportably high and the political embarrassment would be great. Transferable rights programmes are therefore almost irreversible.

With ITQ systems, it is difficult for crew members on small boats to become, in time, vessel owner-operators, as has been part of the life-cycle pattern in so many fishing communities. The inequitable give-away of transferable rights to particular individuals who happen to be boatowners at the right time will tend to confine access to the fishery to a more select group and their heirs, and thereby create or sharpen class divisions in fishing communities. A further important social and economic concern is that of the geographical concentration of fishery access privileges. This may be achieved through the acquisition or control of ITQs by corporations, which then locate the fishing vessels they own or control at their base of operations in particular larger centres. This is liable, in time, to destroy the viability of many smaller communities that do not have the financial resources to compete for the purchase of quotas and licences, but that would have remained economically viable if they had continued to have access to their accustomed resource base. This represents a loss of social capital invested in infrastructure and of private capital invested by the inhabitants, who may also find their lives disrupted and their circumstances much reduced.

It is important to recognize clearly the intrinsic nature of a government's move to install an ITQ regime, starting with a free gift of marketable access rights to selected individuals. It is basically the expropriation without compensation of a community's resource base**.** This may end up with alienation of the resource from the community, and its actual or prospective transfer into the hands of outside corporate or entrepreneurial interests, which may decide to exploit the resource from a distant base. The direct financial value of this confiscation may be measured by the capitalized value of the quota holdings representing the alienated resource.

Privatization of rights

In summary, what does the move to 'privatization' of fishing rights in the form of ITQs and transferable licences really

mean for coastal communities that have been historically dependent on their local fishery base?

It may mean the 'enclosure' of their fishery commons by the authority of a distant government; the confiscation of a fishery resource to which they have had a long-established traditional right; the rupture of a community's social fabric and the sharpening of class and wealth distinctions, with the assignment of windfall gains to some and the loss of access to a master-fisherman's career for others; the prospect of alienation of a vital community resource base to wealthier outside interests; and, finally, the possible decline and eventual abandonment of the community itself.

ITQs are frequently promoted as a device to 'privatize' the fishery. It is asserted that they would abolish the common-property nature of fish stocks, and bring about private ownership of the fishery, with the efficiency advantages that attach to such ownership. This vision is wrong. The notion that ITQs will remove the common-property nature of fish stocks and make the fishery 'just like' other industries is utterly unrealistic. It needs to be realized that fish in the ocean are fugitive and can not be segregated, identified and assigned to different owners. The ecology that nurtures them is the seamless multi-use ocean environment that is common for fishing, recreation, transportation and many other purposes. Fish stocks and the ocean environment that produces them, by their very nature, are common-use and common-property resources. They can not be divided into self-contained and separately managed units to which comprehensively specified private property rights may be attached.

For privatization of the fishery to be substantially complete and to meet the test of economic efficiency, it would be required to give every fishing enterprise exclusive property rights to, and exclusive control over, a particular identified set of fish, along with a particular ecology that produces those fish, in the same way that a farmer owns and controls specific animals and all the productive facilities of the farm necessary to raise and bring those animals to market. It is patently impossible to operate in such a fashion in the marine fisheries, because of the physically determined common-use nature of the resource.

ITQs do not give property rights to the fish stocks, but only privileged access rights to a pool of fish that quota holders continue to exploit in common. It has been demonstrated that ITQs will often help to rationalize fishing capacity. On the other hand, as shown above, they will also frequently result in distributional inequities. Of further concern is the fact that, in many cases, they are demonstrated to be damaging to fisheries conservation.

In ITQ fisheries, the Total Allowable Catch (TAC) needs to be set firmly at the beginning of a season or fishing period, as participants need to know in advance what their quota (share of the TAC) is. The credibility of the system depends on honouring the set quotas, but sound management requires constant monitoring of stocks, with in-season changes in TACs and fishery closures, according to observed stock conditions. The inflexible TACs of ITQ systems lead to harmful overfishing if they are set too high, or wasteful underfishing if they are set too low.

ITQ systems are notorious for cheating ('quota busting'), with participants taking, but failing to report, catches in excess of quota. Enforcement of quotas is difficult, expensive and, in many fisheries, impossible to achieve. Where enforcement of quotas is reasonably successful, a different problem arises, that of 'high-grading'. In order to maximize income from their (quantitative) quotas, fishers are induced to throw away fish that have a lower value per pound, which often means a significant part of their otherwise saleable catch will be discarded and go to waste. Even worse is the practice of 'price-dumping' in some ITQ fisheries, where the entire catch of a trip is discarded if ,on the way back to port, it is found that the day's market price is low.

Forbidden practices

All three of the foregoing practices are usually forbidden in ITQ fisheries, and so perpetrators do not report their transgressions. This leads to 'data fouling', with catch mortality being

under-reported and managers not knowing the full impact of fishing on stocks. The result is inferior stock estimation and greater hazards in setting unreliable quotas at the beginning of the fishing season.

Adding to the problems are mixed-stock fisheries, where it is impossible for vessel operators to catch different species in the same proportions as the quotas given for those species. This also may result in discarding to match catches with quotas, or to quota busting to hide overages.

There is ample evidence to indicate that ITQ systems often can not be reconciled with sound fisheries management and are basically incompatible with the precautionary approach that is now the international standard for responsible fisheries management. While small-scale fishing communities may feel particularly threatened by the damaging social impacts of ITQs, they may find that some of their most effective arguments refer to the adverse conservation impacts of ITQs. This also provides a strong basis for alliance with socially sensitive environmental groups.

In the industrialized countries, small-scale, owner-operated vessels fishing in coastal waters have some important natural advantages over the corporate fisheries sector. Smaller vessels are generally effective in targeting inshore stocks, and economical in operation close to their local base. With short times at sea and a good holding facility, they can deliver a high-quality, fresh product. The owner-operator of a small boat is greatly motivated to run his vessel efficiently and maintain it carefully.

Provided the small-scale fishery is rationalized to yield attractive revenues per boat and to operate subsidy-free, it is in a position to impress sensitive governments with the social advantages of its relatively high labour intensity, its favourable lifestyle, and its economic and social underpinning of smaller coastal communities. The populations of many fishing communities have grown, while advancing technology has reduced employment opportunities in the fishery, even if partially offset by the greater range of fisheries now pursued. To remain economically healthy, the small-boat sector must accept the need to keep fishing capacity in balance with available harvests. This will probably require occasional reductions in fleet size by buy-back, in order to offset likely advances in fleet productivity.

Developing countries

The plight of small-scale fishing communities in developing countries is often a daunting one. Where population densities are high, open access to the fishery has frequently attracted large

numbers of impoverished, landless workers.

Fishing communities have often become the abode of 'the poorest of the poor'. Intense population pressure, in combination with a lack of government capacity to manage the fisheries and a lack of effective local authority to impose a conservationist discipline, easily leads to overfishing.

In several countries, the desperate need for immediate daily income has caused fishers to engage in 'Malthusian overfishing', employing destructive techniques using dynamite, poison and ultra-small-mesh nets.

In developing countries, the immediate threat to small-scale fisheries often comes from the encroachment on inshore fish stocks by industrial fishing operations. These have often been encouraged by governments anxious to promote industrialization and to develop export industries for high-value species, such as shrimp.

In addition, industrial fisheries and aquaculture operations have been allowed to encroach upon the grounds of small-scale fishers. Lack of fishery management restrictions on these operations often leads to depletion of wild stocks and disease outbreaks in aquaculture.

On the other hand, in some countries, governments have recognized the needs of vulnerable coastal communities, and have moved to protect coastal fisheries by prohibiting larger vessels from fishing near to shore, though enforcement has frequently been ineffective.

The immediate priority of threatened small-scale coastal fishing populations in developing countries has to be the vigorous assertion and defence of traditional rights to adjacent resources, culminating in legal recognition of those rights. No less important, however, is the long-term need to achieve a reform of coastal fisheries that will help to banish damaging fishing practices and produce larger sustainable yields. Experience suggests that community-based co-management approaches may have the best prospects for success. A full solution to the coastal fisheries problem in developing countries will require the provision of job opportunities outside the fishery to draw off surplus labour from the fishery.

Political fashion

Small-scale fishing communities in developed countries have become the victims of the current political fashion for 'privatization'. It is being applied to the fishing industry incorrectly, in the mistaken belief that the common-use and common-property characteristics of marine resources can be suppressed.

The device of the ITQ is being used to this end, on the erroneous assumption that fugitive marine resources can be divided, packaged and assigned to private owners in effectively the same fashion as immobile and captive terrestrial resources.

In some places, much damage has already been done in alienating fishery resources from small-scale fish harvesters and in diverting fish catches from smaller, fishery-dependent communities to larger, industrial centres. Meanwhile, in developing countries, small-scale fish harvesters in many places are losing resources to encroaching industrial fishing and aquaculture operations. The already precarious livelihood of large numbers of fishery-dependent workers and their families is at stake.

Behind the current campaign for 'privatization' of fisheries lies the reality of an assault on the traditional common-property resource rights of vulnerable fishery-dependent populations. Given the clearly adverse impacts of privatization devices such as ITQs, both on social equity and on resource conservation, a strong basis exists for joint action in defence of common-property marine fish resources by groups representing small-scale fish harvesters and environmentalists, both in developing and in industrialized countries. Considering the extensive and near-irreversible damage that is being inflicted by so-called fisheries privatization, there is no time to lose in mounting the defence.

This article is a summary of an extended paper by Parzival Copes, which formed the keynote address at the founding meeting of the World Forum of Fish Harvesters and Fishworkers in New Delhi, on 18 November 1997