

From Apartheid to Democracy

The regulation of South Africa's inland fisheries continues to remain stuck in apartheid and colonial practices. The country needs a road map to make it work for all stakeholders

South Africa's inland fisheries sector is unusual. It is probably the only country on the continent with a recreational fishery larger than its small-scale fisheries sector, both in the number of participants and in terms of economic contribution. South Africa is also among the few countries on the continent with under-exploited inland fisheries. The norm for the African

continent is the opposite: small-scale fisheries (SSF) are usually larger than the recreational fisheries and most inland fisheries are over-exploited.

Colonial recreation

Early records show that they considered the rivers "tantalizing empty streams" despite an abundance of indigenous species of fish in South Africa. Since the British colonials had a strong preference for trout, they thought it can never be too plentiful in South African streams. They began a programme to stock trout in South African rivers. A hatchery was built outside Cape Town; live trout was shipped from Britain to start a breeding and stocking programme in the late 1890s. It had a critical role in shaping the country's inland fisheries.

Sustaining and developing the recreational fishery to the intended scale needed government support and funding. A law passed in 1867 to this end; its consequences went far beyond the support and development of the recreational fishery. It continues to influence current environmental legislation. The colonial law effectively recognized the legitimacy of only recreational fishery over the country's aquatic resources. It made no mention of traditional fisheries, let alone recognize or develop small-scale fisheries.

Traditional methods

Such laws and regulations are the basis of present-day provincial environmental legislation. Freshwater fishing regulations focus on recreational fisheries. Thus, the only legal way to catch freshwater fish was by using gear that a recreational fisher would use: a rod and line. This excluded traditional fishing methods and gear used by small-scale fishers like nets.

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Race adds another layer to South Africa's inland fisheries sector. Historically, recreational anglers have largely been white people and small-scale fishers are largely black people. How did this happen? Like most matters of access to the country's natural resources like land, water and minerals, South Africa's inland fisheries is a product of colonial policies and apartheid.

During South Africa's long colonial period, the early British settlers came with a well-established tradition of recreational fishing—in particular fly fishing for trout, not indigenous here. The early settlers from Europe had no interest in the many of the indigenous species could be caught using a fly.

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Small-scale fishers on Disaneng Dam in North West Province of South Africa

After becoming democratic in 1994, South Africa addressed the inequalities in marine fisheries. Like the freshwater sector, small-scale fishers were excluded from the legislative framework of the marine sector. In 1998, a new law was passed: the Marine Living Resources Act (MLRA). This paved the way for managing South Africa's marine fisheries along the values enshrined in its new constitution.

A similar transformation did not take place in freshwater fisheries. Even today, inland fisheries are managed and governed by provincial environmental legislation that has not undergone the required transformation. It therefore serves the interests and needs of only recreational fishers, continuing to exclude the needs and rights of traditional and small-scale fishers. The exclusion of small-scale fishers from provincial laws did not prevent them from fishing. On the contrary, SSF are

expanding across the many dams and rivers of South Africa. Just that this growth is unregulated.

The exclusion of small-scale fishers from provincial laws did not prevent them from fishing

At the national government level, fisheries come under the Department of Forestry, Fisheries & Environment (DFFE). Historically, it has dealt only with marine issues, leaving freshwater fisheries to be administrated by environmental departments of the provinces. DFFE recognized the issues within the freshwater sector and, in February 2022, gazetted South Africa's first National Inland Fisheries Policy.

Guided by constitutional imperatives, the policy provides for equitable access to aquatic resources to all recreational anglers as well as traditional and small-scale fishers

This was a milestone. Guided by constitutional imperatives, the policy provides for equitable access to aquatic resources to all recreational anglers as well as traditional and small-scale fishers. It recognizes the need to balance development with sustainability. Its other key elements include the ecosystem approach and co-management, the structures of which will be created at both the local level as well as provincial and national levels.

However, as progressive as the policy is, it cannot be implemented because it is not backed with legislation. DFFE is yet to develop national legislation that specifically deals with inland fisheries. Therefore, within the legislative framework, the existing provincial environmental legislation is placed higher than national policy.

This has created a difficult situation for the country's inland small-scale and traditional fishers. While the national policy recognizes them, they are still subject to provincial laws that effectively keep them excluded. In many ways, this has heightened tensions among the various stakeholders. Provincial environmental departments, in many ways, see the development of SSF and traditional fisheries as a risk to the environment. They continue to stick to old legislation.

Likewise, recreational anglers see SSF as an existential threat. For over a century recreational anglers have enjoyed near exclusive rights to fish in the country's freshwater systems. Therefore, they are wary of the government effort to formalize and develop the SSF sector. Another concern is the increasing—and unregulated—use of gill-nets in SSF. The national government says it cannot act without the legislation to back the new policy. Provincial governments are unwilling

to compromise on their unreformed environmental legislation.

SSF is growing in this regulatory vacuum. This will have two consequences. One, the unchecked use of gill-nets will have environmental repercussions. Two, regulation of inland fisheries for sustainable growth will become increasingly difficult down the line. This is a greater long-term concern if fishers develop their sector on their own, without agreeing on regulations and management practices on, for example, the size of the gill-nets.

In recent years, conflict between recreational anglers and small-scale fishers has increased. There are many instances of recreational anglers seizing and destroying gill-nets of small-scale fishers, ratcheting up the tensions along the fault lines of race.

This current situation is undesirable; if it continues it will generate losers only. Recreational fishery contributes to the economy and therefore needs protection. Likewise, SSF and traditional fisheries must be afforded access their resources along the values of equity and sustainability. There is enough space for all users to co-exist and thrive.

What is lacking, then? For one, DFFE needs to engage with the various provinces and sort out an interim solution, recognizing small-scale and traditional fishers, allowing them equitable access to their resources. While doing this, DFFE needs to work on the necessary national legislation. If this is not done at the right time, it will be a missed opportunity. South Africa's inland fisheries can contribute to both economic development as well as food production.

For more

Democratising South Africa's Inland Fisheries

<https://www.youtube.com/watch?v=hBX4vb6-B5I>

A Situational Analysis of Small-Scale Fisheries in South Africa: From Vulnerability to Viability

https://www.masifundise.org/wp-content/uploads/2022/10/A-Situational-Analysis-of-SSF-in-South-Africa_V2V-Working-Paper-No.-2022-9.pdf

National Freshwater (Inland) Wild Fisheries Capture Policy for South Africa

https://www.gov.za/sites/default/files/gcis_document/202203/45954gon1790.pdf