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Defiance and obedience: Regulatory compliance among artisanal fishers in St Helena Bay

Oliver J. Schultz*

Department of Environmental and Geographical Science, University of Cape Town, Upper Campus, Private Bag X3, Rondebosch, 7701 Cape Town, South Africa



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ABSTRACT

This article uses ethnography to explore the socio-cultural dimensions of small-scale/artisanal fisheries compliance in St Helena Bay on the west coast of South Africa. The local economy and culture of this once isolated coastal town is being transformed by economic migration, rapacious urban development, and the dramatic restructuring of the local fishing industry. There are more job-seekers, fewer jobs, and the work that is available is increasingly precarious in nature. This is creating significant economic pressure on local households. In consequence, there is a growing reliance upon government grants. There is also a growing reliance on fishing because artisanal fishers are often the only one in the family who brings food and income into the household. Yet the post-apartheid fisheries dispensation has been characterised by a 'regulatory explosion', which dramatically circumscribed artisanal fishing activities. In response to the pressures of what they experience as an unjust political economy, and an illegitimate regulatory regime, many fishers have attempted the route of engagement through public participation. Frustrations that often result from engagement strengthen an existing culture of antagonism towards the rules and authority of the state. In this context, defying fishing regulations (i.e. illegal fishing) is not only a rational pursuit of material benefit – it is also a symbolic expression of a pre-legislative right to the marine commons, of autonomy and dignity, and of antagonism towards the state. The result is that regulatory defiance is infused with pride among many local fishers.

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When, as today, society rests on private property ... its counter-ideal is the poacher (Edward Carpenter in 'the Victorian Poacher') [1, p. 826]

1. Introduction

The efficacy of fishing regulations depends fundamentally on the extent to which fishers comply with those regulations. An understanding of what motivates fishers to defy, or comply with these regulations is thus critical for sustainable fisheries management. Drawing on research conducted in St Helena Bay on the west coast of South Africa from January to March 2009, this paper explores some of the factors that shaped how small-scale fishers perceived, and responded to the regulatory regime governing their relation with the sea.¹ It is argued that a pervasive discourse

among fishers in St Helena Bay invested regulatory defiance with moral legitimacy. The basis for this discourse was a widespread belief that the state had not recognised their pre-legislative right to access coastal and marine resources in the local area. This lack of recognition was experienced by fishers as an injustice, and fundamentally undermined their perception of the regulatory regime's legitimacy. The result is that antagonism among fishers towards the formal fisheries management system was reinforced—the act of disobeying them became a matter of pride. The prevalence of this discourse, and its power to shape the fishing activities of small-scale fishers in St Helena Bay suggests that militaristic enforcement of compliance is destined to be counter-productive [2–4].

Pride in non-compliance has been fuelled by the Marine Living Resources Act 1998 (MLRA), and its effect on the governance of fisheries in South Africa [5]. Many have argued that this law strengthened existing imbalances [6–9]. In particular, the MLRA provided the legal foundation for the Medium-Term Commercial Fishing Rights Allocation Policy (2001), and the Long-Term Commercial Fishing Rights Allocation Policy (2005), which entrenched

* Corresponding author. Present address: Department of Environmental and Geographical Science, University of Cape Town, Upper Campus, Shell Environmental & Geographical Science Building, Private Bag X3, Rondebosch, 7701 Cape Town, South Africa. Tel.: +27 21 650 3678; +27 21 6502873/4.

E-mail address: scholi005@myuct.ac.za

¹ The term 'small-scale fishing' is used here because this is the currently preferred term in South Africa, and conforms to international discursive conventions. Small-scale fishing refers to activities that are conducted in coastal waters,

(footnote continued)

using low-tech vessels and gear, and which are embedded to some extent in local place and culture.

the dominance of established industrial companies at the expense of small-scale fishers [7–13]. This fundamentally undermined the legitimacy of the broader regulatory regime in the eyes of small-scale fishers in places like St Helena Bay. The allocation of fishing rights at the community level exacerbated this perceived lack of legitimacy, primarily because rights were often granted to non-fishers at the expense of small-scale fishers whose livelihood depended upon the sea. In addition to the costs of being excluded from the Medium and Long-Term rights allocation processes, small-scale fishers were also subjected to an expansion of fishing regulations under the MLRA, which increasingly constrained their fishing activities, and thus further undermined their livelihoods [9,10]. These increasingly restrictive regulations generated considerable antagonism towards the state's management of fisheries amongst small-scale fishers in St Helena Bay, who perceived these regulations as a form of disenfranchisement.

The marginalised position of small-scale fishers in South Africa's fisheries dispensation began to change in 2008, when the Equality Court recognised their right to benefit from the country's coastal and marine resources, as well as their right to participate in fisheries governance processes [14]. The court ordered the national fisheries authority to develop a specific policy to formally recognise and restore the rights of bona fide small-scale fishers, and to provide interim relief measures to sustain these fishers until policy implementation. Following the 2008 Court Order, Interim Relief Exemption permits have been allocated annually to individual residents of coastal towns in the Western and Northern Cape Provinces (1000 permits in 2008, 4000 in 2012). Interim Relief has since become institutionalised in coastal communities, and has increasingly been seen as a source of income in a context of poverty and unemployment. The allocation of these permits has facilitated the entry of many non-fishers, at the expense of those for whom this system was intended [14]. During this period, the departmental responsibility for fisheries shifted from the Marine and Coastal Management (MCM) division of the then Department of Environmental Affairs and Tourism (DEAT), whose mandate was focused on environmental sustainability, to the newly formed Department of Agriculture, Forestry and Fisheries (DAFF), whose focus is on harnessing natural resources for poverty alleviation and economic development [15].² The institutional move from DEAT to DAFF has been accompanied by a re-positioning of small-scale fisheries,

2. Material and methods

2.1. St Helena Bay

St Helena Bay is located in the Saldanha Bay Municipality, on the west coast of South Africa (roughly 150 km north of Cape Town), and has a population of about 11 500 people, most of whom speak Afrikaans as a first language [16]. This small coastal town is defined by the stark contrast between the natural beauty of its surroundings, and the industrial facilities that dominate the shoreline. During the 1950s, St Helena Bay was the site of a booming pelagic fishing industry, and was known as South Africa's 'Cannery Row'. Far from being an isolated coastal town, "the history of St Helena Bay in the period 1936–1956" shows that "the Bay fisheries were integrated into regional, national and international economies and continuously shaped and reshaped by developments in these spheres" [17]. The fishing industry has

² According to DAFF's official planning documents: "the growth of the agriculture, forestry and fisheries industries can be promoted to support the national imperatives of poverty, job creation and sustainability" (DAFF 2010 Strategic Plan, page 2).

since declined, as evidenced by the old and abandoned factories that litter the shoreline. Tourism and property development have gradually overtaken the fishing industry in terms of their economic contribution to the local economy [18]. At the time of this research, middle and upper income housing estates were being developed at a dramatic pace—the landscape was dotted with property billboards and prospective neighbourhoods consisting only of roads and streetlights [19].³ Like many towns in South Africa, St Helena Bay is divided spatially in terms of race and class. To the west is the 'Golden Mile', and the wealthy white neighbourhoods of Britannia Bay, Shelly Point and Duiker Eiland.⁴ To the east are the low income coloured neighbourhoods of Stompneusbaai, Laingville, and Steenberg's Cove (the oldest neighbourhood in St Helena Bay).

2.2. Laingville

The majority of St Helena Bay's population lives in Laingville, which was the primary location of this research. Established in 1972 to accommodate the need for housing in Steenberg's Cove, this township of roughly 8400 people lies tucked away at the entrance to St Helena Bay, out of sight of the glossy property development billboards. Laingville's population experiences the highest degree of economic insecurity in St Helena Bay, and is characterised by high levels of asset poverty, cash dependency and food deprivation. In 2011, there were 7803 people in Laingville who had either no income, or who earned less than USD 160 (ZAR1600) per month [16]. The economic conditions for Laingville's housing consists of small formal structures, with a rapidly expanding zone of informal structures along its outskirts. There are high levels of unemployment among Laingville residents, and low levels of formal education [16,18]. During this research, the most significant day of the month for many residents was known as "All Pay Day", when the company contracted by the national government came to Laingville to dispense welfare grants. In the days that preceded and followed 'All Pay Day', there was a lightening of the general mood as excitement, expectation and a tentative relief filled the air. Laingville's economic deprivation creates the conditions for crime, violence, ill health, and substance abuse [16,18]. I gained a sense of the difficulty of life in this township while walking through a predominantly white cemetery in the neighbouring town of Veldrift. Observing that there were hardly any children's graves there, the 8 year old granddaughter of a Laingville fisher who was with me commented that "where we live there are many children's graves, they are tiny little ones".

2.3. Fisheries

Fishing has played a central role in the lives of a significant percentage of St Helena Bay residents. Their relationship to the sea has been mediated through the fishing companies and their factories. Historian Lance van Sittert observes that "on the West Coast ... the fishermen had long lost all access to the means of production and existed as a debt-bound proletariat" [17], p. 32. The presence of industrial fishing and processing in St Helena Bay sets this town apart from its smaller neighbours like Paternoster or

³ In 1980 there were 87 erven, in 2008 there were 6821 and in 2009 there were "just over 8000" (2008 Saldhana Bay Municipality Spatial Planning Document: Erven Per Town). The final figure was sourced from a discussion with a planning official at the Vredenburg Municipal Office.

⁴ The concept of 'race' is a social construct which does not find itself reflected in biological reality. That this is so is beyond debate. Yet it continues to resonate in the post-apartheid South Africa. Though I am aware of the historical and theoretical controversy surrounding them, I will be using these categories because they reflect the discourse utilised by my informants in St Helena Bay.

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