



Contents lists available at ScienceDirect

Marine Policy

journal homepage: www.elsevier.com/locate/marpol

Challenges for New Zealand's individual transferable quota system: Processor consolidation, fisher exclusion, & Māori quota rights

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ARTICLE INFO

Keywords:

Small-scale fisheries
Catch shares
Indigenous rights
Economic development

ABSTRACT

This paper identifies three management initiatives in New Zealand's Individual Transferable Quota system that facilitated consolidation of the processing sector and limited market access for fishers, even those with quota rights. They are: (1) the placement of responsibility onto a Māori trust in 1992 and tribes (*iwi*) in 2004 to manage a limited amount of quota to benefit all Māori, fishers and non-fishers, which increased the use of quota as an investment asset; (2) the creation of Annual Catch Entitlement (ACE) as a fish access right separate from the quota ownership right, which made it possible to overcome consolidation limits by leasing ACE; (3) the 1997 Licensed Fish Receiver Act that made it illegal for fishers to sell fish off the boat without food safety certification. This account of the fishery policy environment in New Zealand explains why, despite owning significant portions of New Zealand's fishing quota, few Māori are fishing, processing, or selling fish caught by Māori quota.

1. Introduction

In 1986, the New Zealand government established one of the world's most celebrated sustainability success stories of fisheries privatization, the nation's comprehensive Individual Transferable Quota (ITQ) system [1,2].¹ ITQ system implementation, however, was only possible after Māori agreed to give up their aboriginal title rights to the nation's fisheries [3]. In return, in 1992, the government granted Māori 10% of the quota ownership rights for the 26 marine species already in the ITQ system, 20% for all species added in the future, and 50% shares in the nation's largest fishing company [3]. The government allocated the quota shares to a trust, and in 2004, the trust divided the quota asset between 57 Māori tribes, or *iwi* [4]. The goals of the 1992 Fisheries Settlement were two-fold. The first was to involve Māori in the business of fishing [3,5,6]. The second was to do this without changing the design of the ITQ system. While the second goal was achieved – the Māori settlement did not change the structure of the ITQ system – the first was not.

Māori represent about 15% of New Zealand's population of 4 million [7]. As of 2016, they own almost 50% of the nation's fishing quota [8]. But few Māori are fishing, processing, or selling fish caught by Māori quota [9]. Instead, quota managers lease quota to the highest bidding fishing operations, and use the lease profits to purchase more quota for *iwi* [10]. Rarely are the highest bidding companies Māori-

owned. As a result, a handful of vertically integrated processing companies, which control access to and wealth distribution from the majority of New Zealand's fisheries, also fish, process, and sell most fish caught by Māori-owned quota [10–15].

Māori groups manage quota for capital gain, rather than as a fish access right, in order to protect the value of their fisheries grievance settlement asset for future generations. In addition to purchasing more quota, *iwi* also use revenue from quota leasing to fund social and cultural development initiatives, including Māori language revitalization. However, as Donald Brown, an intergenerational eel, abalone, and flounder fisher who does not own quota, explains: fishing, not language learning, is his culture. “*I never knew te reo [Māori language]. Being told I need to know te reo to be Māori – that's not what Māori culture is for me. Fishing is my culture. Taking away my fishing right takes away my culture.*”

When *iwi* manage quota for profit, however, Māori fishers without adequate cash to out-bid vertically integrated processors are excluded. Over the last ten years, in attempt to amend fisher exclusion, without diminishing the overall value of their quota asset, quota managers from larger *iwi* implemented additional quota management strategies that aim to promote small-scale fishers' economic development by subsidizing fishers' access to fishing rights. This paper examines these strategies. In doing so, it analyzes the extent to which the re-allocation of quota to small-scale fishers can curb processes of fisher exclusion

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¹ Stocks of known status show improvement in New Zealand, but the status of an increasing number of fish stocks is unknown [34]. Prior to ITQ system establishment, New Zealand's fisheries were managed by a licensing system, which restricted new entrants but did not restrict total fish take [23].

<http://dx.doi.org/10.1016/j.marpol.2016.11.030>

Received 31 October 2016; Received in revised form 19 November 2016; Accepted 19 November 2016
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and processor consolidation in New Zealand's commercial fisheries [11,12,15]. This analysis is significant for fishers, fisheries managers, and for broader understandings of possibilities for equity in ITQ fisheries, *after* quota consolidation has already occurred.

From 2013–16, the author spent four seasons fishing with inshore Māori fishers, and working with fishers, processors, and quota managers from the Māori *iwi* (tribe) Ngāi Tahu on strategies to manage quota to promote the economic development of small-scale fishers. The Ngāi Tahu *iwi*, whose territory covers most of the South Island, holds one of the largest *iwi*-owned quota packages in New Zealand. Data gathered during this time highlights regulatory aspects of New Zealand's ITQ system that continue to facilitate processor consolidation and exclude fishers—even those who own quota. These findings re-direct responsibility for small-scale fishers' exclusion away from Māori *iwi*, and onto the government, who, unlike *iwi*, has the authority to change how the ITQ system is governed. As demonstrated by Foley et al., when governments implement ITQ systems, they can simultaneously implement policies that maintain fishery benefits for local communities [16]. The opposite is also true. Policies, especially those the New Zealand government implemented to monitor fishers' compliance with the ITQ system, can facilitate the removal of fishing benefits from local communities, even when local fishers hold ITQ rights.

The remainder of this section discusses theoretical considerations that inform the paper's methodology. Part 2 identifies policies related to New Zealand's ITQ system establishment that facilitated small-scale fisher exclusion, gave rise to the use of quota as an investment asset, and concentrated control of the processing sector. Part 3 illustrates how these policies continue to exclude fishers, even those fishers who have fish access rights, by examining strategies that the Ngāi Tahu *iwi* deployed to subsidize small-scale fishers' economic development. Part 4 discusses the broader impacts of small-scale fishers' exclusion and processor consolidation in New Zealand, and presents alternative ITQ system management options.

1.1. Accumulation by dispossession

This paper examines processor control and fisher exclusion as processes of accumulation by dispossession [17]. Accumulation by dispossession, a concept geographer David Harvey popularized with his adaptation of Karl Marx's primitive accumulation, is the process whereby elites obtain control of wealth through practices that restrict others' access to resources necessary for economic development (or means of production) [17,18]. In this case, ITQ system implementation restricts small-scale fishers' access to commercial fisheries. Those with access, including vertically integrated processors with ITQ rights, accumulate wealth by paying low wages to those without access, who must labor for their subsistence. In this conception, wealth is not accumulated by the frugality of the elite, but rather through the exploitation of those without resource access. Those with resource access are thus incentivized to continue to maintain exclusive control [18,19]. Privatization of resource rights, as is the case with ITQ system implementation, facilitates processes of accumulation by dispossession [20]. However, for Māori, as well as other indigenous groups, privatization can also be an opportunity to claim and obtain rights lost under colonial regimes.

1.2. Exclusion and access

To understand why fisher exclusion and processor control of New Zealand's commercial fisheries (evidenced in economic analyses of consolidation [11,12]) persists, despite Māori quota ownership, this paper draws on Jesse Ribot and Nancy Peluso's theory of access [19]. According to Ribot and Peluso, property ownership, such as ITQ rights, is one of multiple factors influencing an individual's ability to derive benefit (develop economically) from, or "access," a resource. Other

factors that shape an individual's ability to derive benefit from resources include access to technology, markets, identities, regulatory officials, as well as biological and ecological conditions [19]. To identify these factors, Ribot and Peluso focus on situated and historical conditions shaping the terrain in which individual resource users operate.

This paper's access analysis highlights policies regulating all quota and fish trade, as well as colonial legacies impacting individual Māori fishers' access to capital, that limit fishers' abilities to derive benefit from fisheries, even when they hold quota rights. These limits incentivize the use of quota as an investment asset by non-fishers. For example, Māori groups who own quota for offshore fisheries, but do not own the boats and gear needed to access the fishery, find it more immediately lucrative to use quota as an investment asset than a fish access right. Access to markets also impacts how benefits from New Zealand's fisheries are distributed. In particular, in situations where individual fishers have access to boats, gear, and quota, but do not meet the government's requirements to become a fish processor, certified processors control fishers' incomes and potentials for economic development. Vertically integrated processors thus accumulate wealth by dispossessing small-scale fishers.

Here, vertically integrated processors are defined as operations who pay non-owners for their labor because the operation's fishing and processing capabilities – determined by ownership of fishing rights, boats, gear, and food safety certified processing infrastructure – exceed the owners' labor capacities. Small-scale fishers are defined as fishers who do not own the means necessary to fish, process, and sell their own fish.

2. Processes of exclusion in the management of New Zealand's ITQ system

New Zealand's ITQ system, which the government implemented in 1986, was the world's first comprehensive ITQ system: a privatized fisheries management initiative that governments elsewhere have since emulated and adapted [21]. New Zealand's system was closely based on the theoretical model designed by fisheries economists to address overfishing due to overcapitalization, or the problem of too many boats and too few fish [12,22–24]. In New Zealand and elsewhere, fishery economists attributed overcapitalization to government subsidies of fishing fleets [24,25]. Governments increased subsidies dramatically in the lead up to the 1982 United Nations Convention on the Law of the Sea agreements, which gave nations the authority to administer all economic activity taking place up to 200 miles out from shore (a range defined at this time to be the exclusive economic zone (EEZ) of nations) [26]. Starting in the late 1970s, fishery economists argued that privatization of fishing rights, in the form of individual transferable quota, could stop overfishing caused by overcapitalization [22,27]. The New Zealand government, governing the world's fifth largest EEZ, was at the time transitioning to a market-based economy [28] and therefore was a willing test site for ITQ system design [12].

To establish the ITQ system, the New Zealand government set a cap on the Total Allowable Commercial Catch (TACC) for 26 commercial fish stocks, defined by species and geographical region [29]. Additionally, the government allocated fishers a right to a percentage of that cap in the form of a quota, and also created a market for quota trade [23,24,30–34]. To monitor compliance, the government regulated fish buyers and sellers. The government's goal in creating a market for quota exchange was to provide an economic incentive for fishers to exit the fishery, without stifling economic activity related to fishing. The market created the possibility for more efficient fishing operations (defined in economic theory as those operations with the most surplus capital) to buy quota from fishers with a higher cost per unit of catch ratio.

New Zealand's ITQ system reduced overcapitalization [30]. It also led to small-scale fishers' exclusion [35] and processor consolidation

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