

The Nepoui conflict in New Caledonia

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Introduction

For more than a year now, Northern Province fishermen have been objecting to the presence of professional fishing boats from Noumea (which is in the Southern Province) in the lagoon waters located between Le Cap and Franco on New Caledonia's west coast.

They fear overfishing and are critical of the techniques being used because they think they are damaging. Their opposition has been voiced in various petitions to the Northern Province Fisheries Department and the Office of the Mayor of Poya Commune, under whose administrative jurisdiction they fall¹.

The dispute flared up when the Northern Province Fisheries Department was about to renew current professional fishing permits, not only for fishermen resident in that Province but also for non-residents whose boats were based there².

The latest petition had become an ultimatum: the Noumea professional fishermen had 48 hours to get out, otherwise the 'Kanak police' would take the matter into their own hands. The petition also stipulated that only professional fishermen with at least 10 year's residence in Nepoui should be allowed to fish in the area between Le Cap and Franco. A truce now prevails however and a compromise has been found which is to be submitted to the Customary Council of the *Grande Chefferie* (High Chieftom) of Mueo (on 18 March 1993).

The Nepoui affair is not an unusual incident in New Caledonia. Kanak fishermen from the South, the North and the Islands have for some years been disgruntled with professional fishermen from other areas using the lagoon waters which, in 'custom', are their maritime territory but which, under French law, may be fished by all legally applying parties who comply with the rules. Boarding of undesirable fishing boats has often been one way of addressing this issue³. But more radical treatment is also sometimes meted out (rifle shots) with results which are unlawful but do secure exclusive enjoyment of the lagoon waters...

Three aspects of this particular conflict can however be considered unprecedented: the identity of the protagonists, the way the conflict was addressed and the legal context in which it should be analysed.

1. The identity of the protagonists:

The local fishermen's claims come both from Kanak fishermen who are the 'traditional' owners and users of this piece of maritime territory **and** from some of the fishermen from the European village of Nepoui, which situation to my knowledge has never before arisen in New Caledonia. On the Kanak side, the leaders are fishermen from the *tribu* (village) of Nepu, in which the Vujo clan is responsible for the maritime territory of the High Chieftom of Mueo, situated between Le Cap and Franco, supported by four other *tribus* belonging to the same High Chieftom⁴.

¹ Constitutionally speaking, New Caledonia is a French Overseas Territory (TOM). In September 1988, under an agreement known as the *Matignon Accords* between the main local political leaders and the French Prime Minister, three federated Provinces – the Northern, the Southern and the Islands Provinces – came into being, and the respective responsibilities of the State, the Territory, the new Provinces and the Communes were set out (the Commune – there are 32 in New Caledonia – is the basic French administrative unit. Nepu and Nepoui come under the jurisdiction of the Commune of Poya).

² Fishing permits in New Caledonia are valid for the Territory as a whole. Since the Referendum Act, the three Provinces have been empowered to issue these (previously this was a Territorial responsibility). But the various powers of each Province are not clearly specified and only under a tacit agreement between the Fishing Department of each of the three Provinces are these permits issued only to fishermen whose boats operate in their waters. In other words, nothing can legally prevent a fisherman from taking his Southern Province permit and going fishing in the Northern or Islands Provinces.

³ A relevant example for the Southern Province is the *Isle of Pines* conflict in March 1991 and the *St Jean Baptiste* (district of Borendi) conflict in November 1991; a similar incident occurred at Tige in June 1991 in the Islands Province, while the Northern Province had experienced the *Yaade* conflict in previous years. Other disputes arise on occasions between Kanak fishermen from the same area but of different origins (cf. Nepu) or from neighbouring areas. However these 'internal' conflicts have not to my knowledge so far erupted on the same scale as the present one with the Southern Province professional fishermen and they are resolved by the fishermen themselves without the involvement of the public authorities.

⁴ The High Chieftom of Mueo includes 5 *tribus*: *Nekiriaï-Karaji* in the valley, *Montfawe*, *Goapin*, *Netea* in the hills and *Nepu* on the shore. *Nepoui* village is also situated in the maritime area between Le Cap and Franco, a few kilometers to the North of Nepu. It is a mining village involved in the nickel trade with a population of over 800 (statistics from Poya Mayor's Office).

From Nepoui village, the claims are been pushed by a non-Kanak fisherman, Mr M., who has also been elected as the representative of the fishermen from this area within the Fisheries Consultative Council of the Northern Province⁵.

He is clearly interested in defending his business (he owns a boat and employs a fisherman to operate it) and therefore encourages the Kanak fishermen to object to professional fishermen coming in from outside.

Since he represents the local 'white' population, the Kanaks have something to gain in backing him for membership of the Consultative Council and in agreeing to be represented by him in this conflict, since his representation consolidates the aspirations of both communities. But it is clear that their interests diverge outside the scope of this dispute.

The rest of the Nepoui fishermen largely fall into two groups, some of whom, like Mr M., do not wish to share their resources with outside fishermen, and others who are locally employed by fishing boat owners from Noumea. The jobs of the latter clearly depend on a compromise being found. The situation is therefore a complex one and there are conflicting interests at play.

2. The way this type of fishing rights' conflict was addressed:

For the first time – according to the protagonists – the representatives of all the parties concerned met on the invitation of the Northern Province Fisheries Department. Kanak and European (and also Wallisian, etc...) fishermen, both professional and non-professional, representatives of the Poya Mayor's Office, the Northern Province through its Fisheries Department, the 'Gendarmerie' (responsible under French law for the surveillance of the maritime territory, but not equipped with a boat in this area) met to put their points of view – sometimes in no uncertain terms – and managed to reach a compromise at the end of the second meeting.

Apart from producing a solution to the immediate conflict, these meetings clearly enabled the protagonists to make a number of remarks which had apparently never previously been exchanged, because local society did not offer any appropriate occasion or venue.

3. The legal context in which this conflict should be analysed:

One of the factors revealed by this conflict is the wish of local fishermen to exercise some kind of control over the management of the maritime zone and its resources.

This takes the form of a rejection of outside fishermen, particularly those from beyond the Province, thus creating a kind of Northern Province-Southern Province antagonism⁶. And this is not the first time that such an 'us-against-them' attitude has emerged in the fisheries sector.

On another level, the legal controversy between the Northern and Southern Province which is at present in full swing over crab fishing (for *Scylla Serrata*) also reveals the need for greater legal autonomy between two Provinces at unequal levels of development.

This conflict over crab is worth mentioning because it marks an important stage in the administrative evolution of the Northern Province, through and within the fisheries sector.

Until 1990, the Territorial Congress authorised crab fishing for six months each year, providing specimens were over 13 cms in size⁷.

The regulations then changed and the minimum size was increased to 15 cms. These regulations suit neither of the Provinces (for different reasons) and the Territorial Marine Resources Committee agreed that the law required amendment.

The Northern Province – which accounts for 80 per cent of crab production – recommended reducing

⁵ The Fisheries Consultative Committee is a body established by the Northern Province (Resolution dated 22 November 1991). It includes representatives of individual professional fishermen and associations of fishermen, representatives of fish-traders, restaurateurs, women's associations, consumer associations, professional associations, the President of the Northern Province and an official from the Fisheries Department. It gives its opinion on the various problems which arise in the fisheries sector in the Province but has no decision-making powers.

⁶ Apart from not being legal, this rejection of the Southern Province fishermen could prove harmful to the Northern Province fishermen's interests. Most of the landings are taken to the Noumea market and reprisals would no doubt very quickly be taken.

⁷ These data come from the daily newspaper 'Les Nouvelles' dated 5.11.1992.

the minimum size for crabs to 14 cms and that the fishing season be opened for eight months each year. Its arguments were that a 15 cm crab was old and had an unpalatable flavour, that crabs of this size were becoming too rare and that this encouraged the preparation of shelled crab meat, tempting people to offend because it was difficult to check on what was happening.

The Southern Province asked for a minimum size of 15 cms and a ten-month fishing season, so as not to hinder the restaurant, hotel and tourism trades. The Marine Resources Committee, since it is dominated by the same political majority as the Southern Province, approved legislation along the lines preferred by that Province.

The Northern Province therefore decided to legislate for itself and approved proposals within the Provincial Assembly, adding a ban on crab meat sold out of the shell. To justify its position, it put forward the argument that the Territory may have jurisdiction over animal-related matters, but that the Provinces are responsible for environmental conservation, and that they cannot exercise that responsibility without 'policing' it. In response to this legislative 'revolt', the Northern Province currently faces legal proceedings by the Territory and the French State.

The stakes are high: if the Province is acquitted, this

would create a significant legal precedent. If it is found guilty, it would still be able to use its responsibility in environmental matters to protect its resources, and this could go as far as declaring the whole of the Northern Province a marine reserve. Such is the general legal background to the Nepoui conflict.

Conclusion

The Nepoui conflict would appear to be on the way to being resolved. The compromises accepted have been shaped by specific local circumstances.

But the problems raised by this conflict – the degree of autonomy of fishermen in the management of their maritime territory, the definition of the rights and responsibilities of each party, development and/or protectionism, circulation of scientific, technical and 'traditional' information, means of surveillance and protection (establishment of reserves...) and user monitoring, etc... - have a much wider import.

They reveal the fact that ad-hoc solutions will not prevent other conflicts arising and being-or not being-resolved until such time as these fundamental problems are addressed with due regard to all the circumstances, both by local protagonists and by the judicial and political authorities.

