



Justifying non-compliance: The morality of illegalities in small scale fisheries of Lake Victoria, East Africa



Dražen Cepić^{a,*}, Fiona Nunan^b

^a Department of Sociology, University of Zadar, Obala kralja Petra Krešimira IV, br. 2, 23000 Zadar, Croatia

^b International Development Department, School of Government and Society, Muirhead Tower, University of Birmingham, Edgbaston, Birmingham B15 2TT, United Kingdom

ARTICLE INFO

Keywords:

Non-compliance
Small scale fisheries
Lake Victoria
Illegal fishing
Modes of justification

ABSTRACT

The literature on compliance in small scale fisheries provides evidence of the normative foundations of fishers' behaviour. However, the mechanisms through which normative reasoning translates into non-compliance remains unclear due to the tendency to conceive non-compliant behaviour simply as an outcome of 'moral deficit'. This paper identifies such mechanisms by focusing on moral reasons which undermine the legitimacy of fisheries regulations. Taking the case of Lake Victoria, East Africa, the paper explores how non-compliance can be founded on diverse and competing concepts of fairness by creating a typology of the modes of justification used by respondents who engage in illegal fishing. The paper establishes four areas of justification: the principle of superfluosity, the principle of autonomy, the principle of futility, and the principle of necessity. Investigating the evidence for each, the analysis finds that the majority of fisherfolk believe that regulations are necessary and support government action in fisheries management. However, fishers expressed futility in fishing legally, given the extent of illegal fishing, and justified their non-compliant behaviour through reference to the cost of legal fishing compared to illegal and the need for better catches and income associated with illegal fishing.

1. Introduction

Non-compliance is one of the central challenges of fisheries management. Fishers are subject to numerous regulations that constrain their opportunities to earn income, and temptations and opportunities for offending repeatedly occur [25]. The use of fishing gears with incorrect mesh size, catching undersized fish, dynamite fishing and poison, destroying flora and fauna, and conducting fishing activities during closed seasons and in protected breeding grounds, challenge the sustainability of fisheries—not only because of the negative environmental effects, but also because non-compliance can have a domino effect [2]. Non-compliance may result in unsustainable fishing and reduced stocks, threatening the very livelihood source on which fishers depend. Why then do fishers use fishing methods which in the long run deprive them of the source of their livelihoods? The scholarship on small-scale fisheries draws on two areas of theory to explain non-compliance, providing instrumental and normative explanations.

The instrumental approach explains non-compliance using the rational choice framework, being “based on the assumption that the individual primarily responds to the immediate benefits of compliance or non-compliance behaviour” ([26]: 425). Based on the tradition of

critical criminology, which in the 1970s developed a political economy approach to crime [21], it is assumed that fishers make decisions through cost-benefit analysis and use illegal methods when potential benefits outweigh perceived costs. The normative approach on the other hand argues against the “under-socialized” conception of social action [16], advocating an expansion of the utility-based rational choice model through incorporating a sub-set of potential factors from relevant disciplines [1]. The instrumental approach has most often been associated with attempts to reduce non-compliance by increasing monitoring, control and surveillance in order to increase the potential of catching illegal fishers, whereas the normative approach has led to an alternative route, promoting regulation that will be supported by fishers [26]. By stressing the need to take into account sources of motivation other than only external incentives, normative theorists therefore sought to offer a more nuanced approach to explaining fishers' behaviour.

Despite a burgeoning literature on normative explanations for compliance [1,2,7,11,13,14,21–23,25], the contributing factors through which norms affect fishers' behaviour remain insufficiently elaborated. Al-Subhi et al. [1], for example, show why fishers follow the rules—to avoid sanctions, because of peer pressure, their personal

* Corresponding author.

E-mail addresses: dceplic@unizd.hr (D. Cepić), f.s.nunan@bham.ac.uk (F. Nunan).

morality—but evidence on why fishers break rules is lacking. Kuperan and Sutinen refer to the “sense of moral obligation” ([25]:312) and Nielsen talks of “fishers’ personal moral and perception of what is right and wrong” ([26]: 427), but the exact mechanisms through which normative reasoning translates into non-compliance are not apparent. Paradoxically, by examining compliance, literature does not at the same time necessarily explain non-compliance, as the latter is conceived simply as an outcome of “moral deficit”, rather than an action founded on alternative concepts of fairness.¹ Although these studies in a broad sense link non-compliance to the issue of morality, they do not explain how fishers’ behaviour depends on following different modes of moral justification.

In this paper, the modes of moral justification are studied inductively and through a pluralistic framework, drawing on theoretical advancements in the school of pragmatic sociology [31,4,6]. The paper identifies four such modes of justification which act as drivers of illegalities: specific local-ecological knowledge (the principle of superfluosity), general legitimacy of the state apparatus (the principle of autonomy), lack of social trust (the principle of futility) and poverty (the principle of necessity). The given typology derives from literature and is generated from data generated from fieldwork, with the interview schedule including probes on modes of justification identified in the literature. (Although not all patterns were equally represented among the respondents, and some were almost absent from findings, this was nonetheless included in the typology as earlier literature reported its importance.) The main contribution of this paper therefore consists in providing a systematic overview of moral resources used to ground the use of illegal practices, rooted in competing conceptions of common good. This is crucial for improving the cost effectiveness of fisheries enforcement, given that different modes of non-compliant behaviour require tailor-made solutions, rather than a one-size-fits-all approach.

Fieldwork on which this paper draws was undertaken on Lake Victoria, East Africa. Lake Victoria, the second largest freshwater lake in the world, is a major fisheries resource and was chosen for the research as it exemplifies well the challenges of fisheries management. It is believed that a prevalence of illegalities threatens the sustainability of the fisheries [19,20]. Prior to the late 1990s, fisheries management on the lake was centralised, determined on a country-by-country basis, and included little or no community participation. A lake-wide harmonised co-management approach was introduced from the late 1990s, where resource users (including boat owners, crew and traders) at fish landing sites work with government to manage the fishery and contribute to policy development. This approach led to the formation of community-based Beach Management Units (BMUs) around the lake, with an elected committee and membership composed of everyone working within fisheries at a fish landing site. Despite the introduction of co-management, the extent of illegalities in the lake fisheries is not believed to have decreased [19,20].

The next section describes the theoretical framework, followed by the methods and data used in the research, and the results, which are presented by describing four patterns that act as drivers of non-compliance. In the discussion section, the findings are situated within the context of the literature on fisheries compliance. Finally, the conclusion

¹ This is not identical, but is related to the tendency to equate instrumental behaviour with non-compliance, and conversely, to associate normative perspectives to compliance. For instance: “The normative perspective emphasizes what individuals consider just and moral, instead of what is in their self-interest. Individuals tend to comply with the law to the extent that they perceive the law as appropriate and consistent with their internalized norms” (e.g. [25]: 312) and “in situations with overcapacity the fishers can be expected to have an instrumental rationality and be driven by economic motives. This creates incentives for non-compliance” ([26]: 427). However, these dichotomies are not overlapping: the dichotomy “instrumental vs normative” denotes different conceptions of human agency, while the dichotomy “compliance vs non-compliance” refers to the outcome of the agency. That is why ontological perspectives can lead both ways, instrumental reasoning to compliance, and normative to non-compliance.

sets out the contribution of the paper to existing knowledge and identifies areas where further research could usefully be undertaken.

2. Theoretical framework

According to normative arguments, fishers who engage in illegal fishing do so because they follow internal incentives (their values, tradition, or local conventions that are in disaccord with fishing regulations), which undermines the legitimacy of the rules governing fishing activities.² But what are the exact mechanisms through which normative reasoning translates into non-compliance? This issue is explored by analysing moral framing of non-compliant behaviour.

Gezelius [13] contributed significantly in this regard by tracing how morality of compliance is connected to perceived moral obligation to protect the common good. He pointed out that the moral principle of rule compliance can contradict the moral principle of survival, recognizing moral barriers which exist between various non-compliant practices which is associated with the purpose of fishing. Whereas illegal fishing for subsistence was directed at satisfying personal needs of the fishers, and therefore limited in scope, illegal commercial fishing poaching was condemned and socially sanctioned, as in the eyes of the fisherfolk it was seen as a threat to the common good. However, what if there are multiple conceptions of common good within fishing communities? Survival of the fish stock in functionalist terms could be taken as an ultimate common good, given it is the precondition for the survival of the community at large (not only in terms of physical survival of its members, but survival in broader cultural and social meaning—mores, tradition, overall way of life), yet at the same time, it is important to bear in mind that collectivities are rarely constituted by a single social order.

To take this into account, this paper embraced the theoretical framework developed by Boltanski and Thévenot [5,6]. Rather than overemphasizing the impact of the social on the individual, and sliding into the assumption that society is unified and built on consensual grounds, their conception of society is essentially broken into different, often antagonistic worlds. Boltanski and Thévenot [5,6] developed a grammar of different modes of justification, which they called “orders of worth”. This typology consists of systematic and coherent principles which are mutually incompatible with, and irreducible to, each other ([31]: 343). Furthermore, the choice of the respective mode of justification is not attached to collectivities but to situations, which then oblige individuals to shift between different modes. In order to act in a normal way, an average person must be able to shift between situations which require different orders of worth ([5]: 365). Thus, instead of being prisoners of Bourdieu’s habitus [8], Boltanski and Thévenot’s agents are capable of voluntarily switching between different modes of justification, dependent on respective circumstances.

In the case of fisheries compliance, this is in line with the approach developed by Boonstra et al. [7]. In their typology of fishers’ responses to regulation, they warn that “in reality, people will embody a repertoire of posturing that they deploy based on a changing and complex social-ecological environment” ([7]: 10), indicating that the different responses are often employed by same actors in different situations.

To conclude, in order to provide a detailed explanation of how social norms affect fishers’ choice of illegal fishing methods, this paper explores how fishers justify non-compliance in moral terms. However, rather than operating with a simplified, binary concept of morality (which can, but does not have to be attached to functionalist assumptions—the need to protect the common good), this paper is built on the

² Raakjær Nielsen argues that “in the instrumental approach, it is important that the regulations and the distribution of fishing rights are perceived as legitimate” (2003: 427). However, if legitimacy indeed is a normative phenomenon, then it remains unclear how it can be combined with a view that people act only according to external incentives, which are by definition non-normative? In this respect, non-compliance can be studied in the context of legitimacy only using the normative approach.

Download English Version:

<https://daneshyari.com/en/article/5118128>

Download Persian Version:

<https://daneshyari.com/article/5118128>

[Daneshyari.com](https://daneshyari.com)