



Fishing in the Margins. North Sri Lankan Fishers' Struggle for Access in
Transboundary Waters

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English summary

Introduction

Why are transboundary fisheries, and the conflicts that affect them, so difficult to govern? What explains the inability of vulnerable fisher populations to access fishing grounds in spite of the availability of clear access rights? What are the opportunities and limitations for civil society networks to support marginalised fishers in regaining access to fishing grounds? This dissertation attempts to answer these pressing societal questions.

Globally natural resources are subject to struggles for access amongst competing users. Histories of colonialism, modernisation, globalisation and liberalisation have changed the way in which natural resources are appropriated and utilised; those most dependent on natural resources for their food security and livelihoods are frequently pushed out (Sowman and Wynberg 2014; Bavinck 2014). In this dissertation, I highlight the condition of a fisher population in post-war northern Sri Lanka whose access to fishing grounds has been structurally compromised. Decades of civil war in Sri Lanka (1983–2009) shattered the north Sri Lankan fisheries sector by destroying equipment, restricting operations, and displacing populations. Capitalising on the war-induced vacuum that occurred, the trawler fleet from the neighbouring Indian state of Tamil Nadu, expanded and became increasingly dependent on north Sri Lankan fishing grounds. After the war, restrictions were lifted, yet fishers in the Northern Province were not able to regain meaningful access to their fishing grounds as trawler intrusions continued.

In this dissertation I draw mainly on interactive governance theory (Kooiman 2003), political ecology (Peets and Watts 2004; Robbins 2012) and commons theory (Ostrom 1990; Agrawal 2003). My research, however, departs from two observations. First, despite unambiguous national, bilateral and international laws and agreements stipulating that fishing fleets have no right to operate in other nations' waters, and despite pervasive coastguard and navy forces, about 2000 Indian trawlers continue to operate in large numbers in Sri Lankan waters. Second, despite the damages imposed on the north Sri Lankan fishers, who represent a quarter of the total population in the area, their collective mobilisation against these trawlers has been minimal. The overall research question guiding this dissertation therefore is: *How is northern Sri Lankan fishers' marginal access to Palk Bay fishing grounds (re)produced and contested and what does this imply for civil society efforts to improve multilevel transboundary fisheries governance practices?*

Research methods (Chapter 2)

Data for this research were collected through a mixed methods approach during four fieldwork periods (total 13 months) in Sri Lanka in 2011–2013. Research methods included 200+ open interviews with fishers, fisher leaders and key-informants, participant observation for

prolonged periods in three case study villages, a household survey (N=999), registration of catch data over a one-year period from twelve boats, continuous engagement with selected fisher leaders and newspaper monitoring. The research was embedded in a larger, NWO-funded project with the acronym REINCORPFISH. The project gathered a consortium of Dutch, Indian and Sri Lankan universities and activist NGOs aiming to contribute to a fair and sustainable system of transboundary fisheries management in the Palk Bay and support small-scale fisher groups in reclaiming access to fishing grounds. The action-research nature of this project (2010–2016) implied that I conducted research in north Sri Lanka, while also participating in the project consortium's efforts to support north Sri Lankan fishers. Despite considerable complexities of undertaking research in a post-war authoritarian context, the mix of qualitative and quantitative, micro-level and macro-level, action- and reflection-oriented research proved valuable for gaining complementary and multilayered insights.

Transboundary fishing conflicts (Chapter 4)

While fisheries conflicts may eventually involve competition over resources, analytically it is more productive to investigate conflicts from the perspective of their spatial, technological and institutional incompatibilities. Conflicting parties clash over material interests regarding who can fish when, where, what and how. But typically they also refer to different socio-legal systems and provide competing justifications and perspectives on what is 'fair'. While fisheries conflicts are often understood either as a conflict of interest or a conflict over rights, I suggest that these two perspectives can be combined. The larger the disconnect between people's perspectives on what they consider fair and people's actual ability to gain benefit from resources, the larger the potential for conflict. A transboundary dimension adds complexity, since competing parties cannot refer to a single institution or authority to handle conflicts, and because fisheries issues become intertwined with bilateral politics. I point out in chapter four that the dynamics of the Indo-Sri Lankan transnational fishing conflict needs to be understood in relation to 1) the history of ethnic strife and the debilitating impact of the civil war; 2) the specific geography and history of Tamil minorities in the South Asian region; 3) the post-war ethnic politics that undermine north Sri Lankan fishers' agency and 4) the nationalist politics in Tamil Nadu which successfully frame transgressing trawler fishers as victims of Sri Lankan Navy aggression rather than perpetrators. I argue that these mechanisms together undermine the ability of Sri Lankan fishers to access fishing grounds in the Palk Bay. My dissertation thus demonstrates that transboundary fisheries conflicts cannot be fully understood in fisheries terms, but only by revealing their embeddedness in regional political and historical geographies of ethnicity and nationhood.

Governability assessments and marginality (Chapter 5)

I employ the concept of governability (Bavinck et al. 2013; Jentoft and Chuenpagdee 2015) to understand why the Palk Bay transboundary fisheries conflict is essentially 'wicked' and resistant to simple governance solutions. Analysing the Palk Bay fisheries system through a governability lens, I identify six issues that limit the Palk Bay's capacity for and quality

of governance: 1) the mismatch between the scale of governance practices and the scale of the problem; 2) the high level of institutional fragmentation with limited constructive cross-linkages; 3) the incompatible problem images at both sides of the Bay; 4) the power asymmetries between Sri Lankan and Indian fishers, between India and Sri Lanka; and between north and south Sri Lankan interests; 5) the deep politicisation that links the fisheries issues to higher level ethnic and geopolitical conflicts; and 6) the path dependency of the trawl sector which makes it hard to develop feasible alternatives. Interactive governance and the governability concept prove particularly powerful in their appreciation of and engagement with the complexity and dynamics of the issue. I also note, however, that governability assessments may not be the most adequate tool for explaining the reproduction of marginality, i.e. why north Sri Lankan fishers lose out systematically. The reason for this is that governability assessments: a) are deeply embedded in an apolitical perspective, which is concerned with improving governance without sufficiently asking the question *for whom*; b) frame power and politics as ‘a dimension effecting governability’, which is too detached to be able to really expose or confront power relations; and c) tend to attribute governability problems to system characteristics which too easily conceal the harsh implications of power inequality and abuse.

Access and collective action (Chapter 6)

Chapter 6 subsequently furthers an understanding of how unequal access to transboundary commons is reproduced and contested. It does so by providing an empirical account of the thwarted and often half-hearted attempts of small-scale fisher organisations in post-war northern Sri Lanka to reclaim access to the Palk bay and contest encroachment of an Indian trawler fleet. While Indian trawl fishers’ have no legal rights to operate in Sri Lankan waters, their superior technology and political agency constitute effective mechanisms for maintaining access to its rich fishing grounds. North Sri Lankan fishers are not only deprived of such technology and political agency, but have also been unable to collectively challenge this status quo. Reasons for this include: a) post-war political repression by the Sri Lankan state, b) the post-war erosion of, and political interference in fisheries cooperatives, and c) fishers’ inability to articulate and politicise their Tamil identity due to cross-border Tamil nationalist sympathies. This inability to challenge the status quo has forced fishers into cynical frustration and the quiet adjustment of fishing gear, fishing timings and locations to the reality of trawler intrusions.

Theoretically, I contend that for understanding marginality in common pool resource settings we need to make two conceptual shifts. First, my research has shown that resource access is not so much a matter of having adequate rights, but rather a matter of a wide range of relations between resource users and a range of actors and organisations at various levels of scale (Ribot and Peluso 2003). Second, I argue for a shift from studying collective action aimed at fostering local institutions for resource stewardship (e.g. Ostrom 1990) towards studying contentious collective action aimed at contesting mechanisms that (re)produce

access inequalities (e.g. Tarrow 1998). If higher scale actors and/or drivers shape the allocation of natural resource at the local level, we should not assume a ‘sovereign community’ engaged in self-governance, nor that such collective action would be primarily geared at resource management (Agrawal 2003). Fisher efforts aimed at countering dispossession and addressing demands for social justice require political, not managerial engagement. Struggles for resource access are thus not only struggles for legitimate property rights, but also for influencing the mechanisms of access through processes of collective action.

Civil society led change from below? (Chapter 7)

As mentioned above, my research was embedded in the REINCORPFISH project, which aimed to support fishers in northern Sri Lanka to (re)gain access to their fishing grounds and to facilitate the development of a new framework for fisheries governance in the Palk Bay. Guided theoretically by the notion of bottom-up governance the project consortium engaged in three concrete activities besides research: a) the facilitation of transboundary dialogues between fishing groups from both countries; b) the development of a unified fisher organisation in northern Sri Lanka; and c) an advocacy programme to put the plight of north Sri Lanka fishers on the Sri Lanka and Indian political agendas. Chapter 7 points out that over time these efforts became entangled in Sri Lanka’s polarising post-war politics, charged ethnic tensions, military swagger, and conspirational allegations. While the advocacy campaign did prove successful in strengthening the profile of north Sri Lanka fishers during post-war years, the consortium’s limited ability to empower fishers and contribute to a resolution of the transboundary conflict invite an exploration of the project’s underpinnings. I demonstrate that for contexts with transboundary stakes and post-war repressive authoritarianism, the spaces of engagement for non-state actors are too limited to facilitate a genuine process of bottom-up governance. Yet, civil society networks may nevertheless be of vital importance in providing fishing communities with access to national support networks that are able to identify opportunities if and when they arise.

Conclusions (Chapter 8)

The reproduction of marginality of north Sri Lanka fishers is multi-causal and multi-layered. Most directly, it results from encroachment of technologically superior Indian trawlers on north Sri Lanka fishing grounds; this has devastating socio-economic consequences for the north Sri Lanka’s fishing population. Yet, this space for transboundary trawler fishing can only be understood in the context of the history of civil war, the debilitating post-war repression by the Sri Lanka regime, the geographies of ethnicity and nationhood and the contrary interests of Tamil nationalist politics, which together have made north Sri Lanka fishers into political orphans, deprived of elite groups interested in championing their cause. Technically the problem is located in the overcapitalisation and lack of management of the Tamil Nadu trawler fleet. Yet this is in fact a political problem; after all, in the current political context of Tamil Nadu, proposals for restructuring the Tamil Nadu trawler fleet can count on enormous political backlash due to its interlinkages with transboundary ethnic

politics. Given the political nature of the problem, the challenge is to build up pressure on the Tamil Nadu government in order to expose the hypocrisy of simultaneously championing the cause of Sri Lankan Tamils and providing full support to the trawl sector that devastates Sri Lankan fishing grounds.

Theoretically, I propose that in order to further the understanding of and engagement with marginality of small-scale resource users we need to explore a meeting ground between interactive governance and political ecology. While these fields are fundamentally different in origin and conceptual orientation, I argue that accommodation can be facilitated by three analytical shifts in resource governance studies. First, while many scientists applying governance theories to natural resources settings have clear social justice concerns, I suggest that the usual terminology of inclusion, responsiveness, collaboration, participation and interaction appears inadequate to uncover processes of marginalisation. While useful to counter technocratic resource management approaches, understanding how governance practices entail the production of inequality, dispossession and ‘winners and losers’ may be more suitable to understand why marginality prevails. Second, understanding marginality requires a shift from questioning whether governance is of high or low quality, towards understanding the disaggregated outcomes of governance practices. This shift can be guided by a focus on the question: “*governance for whom?*”. Third, in governance studies interactions typically have a constructive connotation in the sense of contributing to learning, mutual responsiveness, information-sharing and problem-solving. However, (governance) interactions can be equally destructive in the sense of dispossessing, extorting and threatening. Appreciating the Janus-headed nature of interactions in governance processes may be important to make fisheries governance studies more attentive to structural forces driving the (re)production of marginality. Finally, this thesis has demonstrated limits to a sectoral approach for understanding access dynamics, since resource access is determined by relations between fishers and actors in other societal domains. Since these relations are socially structured, inequalities over access to natural resources are produced in conjunction with other structural inequalities, like class, caste and ethnicity. In consequence, the marginalisation of a fisher community can never be understood by only looking inside the ‘fisheries box’.