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The Governmentality of Biodiversity in the EU's Common Fisheries Policy

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ABSTRACT. In recent years, the global loss of biodiversity has been an increasing concern for many governments around the planet. Solving this problem requires working together and reforming existing policy frameworks. This paper explores how biodiversity is governed under the EU's Common Fisheries Policy. Drawing upon Foucault's governmentality concept the paper advances its own concept "governmentality of biodiversity". The author identifies three overall arguments for preserving biodiversity that take their basis in self-centered values, de-centered values, or intrinsic values. The author analyzes and determines how the governmentality of biodiversity on the basis of the knowledge and rationality embedded in de-centered and intrinsic values promotes new goals for governing the Common Fisheries Policy. It is concluded that in the different mechanisms of power, the governmentality of biodiversity yields to the rationality of power exercised by member states in the EU.

Introduction

Biodiversity is the sheer variety of life on Earth, which includes all living organisms, plants, animals, microorganisms, bacteria; and the diversity between species, ecosystems as well as within species genetics. Biodiversity has in recent years become a high priority on the international agenda (Queffelec et al. 2009). The widespread concern is the global loss of biodiversity caused by human activities, global warming, dispersion of exotic species, etc. (Schalk 1998; Jackson 2008; Wake and Vredenburg 2008).

According to a report from the European Environmental Agency (EEA) on biodiversity in the North Sea, it is asserted that "marine ecosystems are under intense pressure from fishing, nutrient input, recreational use and habitat loss; most notable are the effects of fisheries" (EEA 2002: 4). Within the existing policy framework that is regulating the fisheries, the Common Fisheries Policy (CFP), the Commission of the European Communities (CEC) concludes in a green paper on the 2002 reform that "As far as conservation is concerned, many stocks are at present outside safe biological limits," thus calling for "integration of environmental protection requirements into the CFP" (2001a: 4) and the need for a Biodiversity Action Plan for Fisheries (BAPF). However, biodiversity is one of many concerns or challenges in the CFP (e.g., globalization of the economy and emergence of new countries in the world fisheries). Policies designed to preserve or limit the loss of biodiversity will collide politically with interests of exploitation (Queffelec et al. 2009). Considering that the CFP in a broad sense, according to scholars, has been a failure in terms of effectively regulating fisheries and preventing overexploitation (Gray and Hatchard 2003; Raakjær 2009), which role will biodiversity then play in the overall policy?

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This paper examines the question of biodiversity within the CFP as a critical case study, in an attempt to highlight a range of general problems between preservation of biodiversity and power. The paper does so by applying Foucault's concept of "governmentality," which is an approach that seeks to question the often taken for granted nature of governing strategies in given periods of time. The analysis is based on a number of documents from the CEC and existing literature on the topic of how the CFP functions. The overall aim of the paper is to investigate and explain *how biodiversity is governed within the CFP*. Methodologically, the paper does so by advancing the concept "governmentality of biodiversity".

The Governmentality Approach

The term "governmentality" stems from a lecture Michel Foucault gave at the *Collège de France* in 1978 in a course called *Securité*, *territoire*, *population*. In one lecture about the activity of governing, Foucault elaborates over the different meanings of the word "conduct" (*conduit*)—for example, as the activity of conducting oneself, in an ethical sense, and as conducting behavior, in a normative sense (Foucault 2007: 192-3; Dean 2009: 17). In the ethical sense, government is the effort to shape, sculpt and guide choices, needs and lifestyles of groups and individuals; it is to govern through freedom in a suggestive way. In the normative sense, government is to establish a code of conduct to which behavior can be judged and regulated. Government is therefore seen as the "conduct of conduct". Foucault argues that "To govern … in this sense, is to structure the possible field of action of others" (1982: 221). A more exhaustive explanation of government as the "conduct of conduct" is that:

> Government is any more or less calculated and rational activity, undertaken by a multiplicity of authorities and agencies, employing a variety of techniques and form of knowledge, that seeks to shape conduct by working though the desires, aspirations, interests and beliefs of various actors, for definite but shifting ends and with a diverse set of relatively unpredictable consequences, effects and outcomes. (Dean 2010: 18)

To analyze government in this sense is to analyze the methods of calculation, the types of knowledge and techniques, the object to be governed and how it is conceived, the types of governing institutions and agencies, and the desired outcomes and consequences.

Governmentality has two central meanings; a historical meaning that Foucault describes in his lectures and a general meaning where governmentality is seen as a semantic linking of the words "governing" and "mentality", thus referring to the way we think about governing (Lövbrand et al. 2008). In this sense, governmentality has a specific meaning that has been phrased "mentalities of government," where there is an emphasis on both rational and irrational ways of reasoning (Rose and Miller 1992). In studying governmentality, one emphasizes two aspects of governing: firstly, the taxonomization and knowing of a phenomenon (e.g., the population, society, and economy), which is represented in the *episteme* of governing; and secondly, acting upon the same phenomenon in order to transform it, which is represented in the *techne* of governing (Lövbrand et al. 2008).

The CFP constitutes, what Dean (2010: 40) calls a "regime of practice," which is a policy area that brings different elements together. The reason for states to act in a community (i.e., the EU) is to manage not just fisheries, but also socio-economic problems and market structures. The CFP makes use of different types of knowledge from economics and biology; it makes use of statistical knowledge to keep track of fish stocks and special tactics and different management styles to govern fishermen; it addresses a single theme revolving around the relationship between society and nature.

Dean (2010) argues that to gain knowledge about such regimes of practices it is necessary to take into account four points of what he calls 'an analytics of government'. First, an analytics

must draw attention to the particular fields of visibility that the government has; what government sees is usually expressed in graphs, tables, maps, or expressions of concerns like that of loss of biodiversity. Second, the technical aspect of government, also called *techne*, revolves around: "by what means, mechanisms, procedures, instruments, tactics, techniques, and vocabularies is authority constituted and rule accomplished?" (Dean 2010: 42). Third, is the examination of the individual and collective identities that regimes of practices operate through and attempt to shape? The question raised is: "what form of person, self, identity are presupposed by different practices of government and what sort of transformation do these practices seek?" (Dean 2010: 43). Fourth, the rational and thoughtful aspect of governing, also called the *episteme* of government, asks: "What forms of thought, knowledge, expertise, strategies, means of calculation, or rationality are employed in the practice of governing?" (Dean 2010: 42). Rationality, Dean argues, takes place within a specific time and space (e.g., a model, a graph, a text).

Rationality is, however, a very contested concept and thus there is need for a clear-cut approach to what is meant by it. Rationality can be thought of as a general meaning of thinking, or "any form of thinking which strives to be relatively clear, systematic and explicit about aspects of 'external' or 'internal' existence, about how things are and how they ought to be" (Dean 2010: 18-9). Max Weber was the first to point out that there is no single, universal rationality, but a great variety of rationalities, even within what can be called *Western reason* (Dean 2010: 18-9). Rose and Miller (1992: 179) argue that there is a multiplicity of what they call 'political rationalities' each possessing an 'intellectual machinery' that makes the natural reality thinkable. In this view, rationality, knowledge, science, and truth are not detached reflections of reality, but become "socially embedded practice interwoven into the fabric of rule and authority" (Lövbrand et al. 2008: 8). How this 'intellectual machinery' functions can be described as kind-making (Miller 2007: 338) which plays a vital role in policy making, as it is this knowledge that makes states able to govern different phenomena, such as the economy or a population. This activity is therefore of special importance and "[through] their day-to-day conceptual and practical work, scientists classify and reclassify the subjects and objects of nature and society, carving up the world into distinct ontological types and occasionally creating entirely new taxonomic categories" (Miller 2007: 338).

The importance of different types of knowledge or activities of reasoning is determined exogenic to knowledge itself. This is so, because rationality does not exist in a vacuum; it is always situated in the context of power. As Foucault pointed to the fact that rationality is analytically inseparable from power and vice-versa. Echoing Foucault, Flyvbjerg (2001: 123-5) asserts that "power defines reality" and elaborates that "power defines, and creates, concrete physical, economic, ecological, and social realities" (Flyvbjerg 1998: 227; Flyvbjerg 2001: 155). Consequently, we must distinguish between formal rationality and *realrationalität* and acknowledge the fact that "rationalization presented as rationality is a principal strategy in the exercise of power" (Flyvbjerg 1998: 228).[2]

Flyvbjerg developed a complex of propositions about the interrelation between rationality and power based on rationality as context-dependent, and that the context of rationality is power. One of these is that: "in open confrontations, rationality yields to power" (Flyvbjerg 1998: 232). In open, antagonistic confrontations, actions are directed at what works most effectively in winning over one's opponent. Here, naked and raw power tends to be more effective than appealing to rationality, which is why the game of power is played as *realpolitik* with the use of *realrationalität*. In short, the argument goes: power has a rationality that rationality does not know, whereas rationality has no power that power does not know (Flyvbjerg 2001: 155). Another proposition that this paper will later draw upon is that "the power of rationality is embedded in stable power relations rather than in confrontations" (Flyvbjerg 1998: 299-233). So, to determine how effective or which role the governmentality

of biodiversity is going to play, the paper will examine *how* power is exercised in the political framework of the CFP in terms of *realpolitik* and *realrationalität*.

The Genealogy of Biodiversity

In genealogic research, one is focused on the search for the plurality of concepts, and not a typical historical linear approach. The main reason for doing this is that we can show all the contradictive views of a concept that there have been in history, thus removing the "taken for granted" nature of concepts in a given period of time. Genealogy research methods therefore are time consuming and impossible to apply in the limited time available, at least in a single paper. Therefore the paper will build on others' work in this genealogical analysis of biodiversity, and the paper relies heavily on Finn Arler's (2009a, 2009b) doctoral dissertation: *Biodiversitet* [*Biodiversity*] with the subtitle *Videnskab, Kultur, Etik* [*Science, Culture, Ethics*].

Biodiversity can be approached, as pointed out by Arler (2009a: 19-20), as an "object of interest" (i.e., what *is* biodiversity?) as well as "reasons for interests" (i.e., why is biodiversity important and how do we value it?). The main focus of this paper is the latter; how do we value biodiversity, and which arguments can policy-makers bring forward in the defence of biodiversity? Arler (2009b) identifies three types of arguments for why we should preserve biodiversity: First, the self-centered argument that refers to the utility an organism can bring humans, which Arler (2009b) points to as a rather weak argument for the preservation of biodiversity, because of the fact that not all species are of utility to humans. Second, the disinterested interest argument that refers to human's ability to distance themselves from self-related needs, conscribing de-centered values to biodiversity. De-centered values can be understood as the observer's ability to "distance him- or herself from self-related needs" (Arler 2009b: 337). The de-centered argument is embedded in the *aesthetic*, *cultural* or *scientific* values that a society has towards biodiversity, which in principle can encompass large parts of the biodiversity. Hence, the disinterested interest argument can be a strong argument because of the wide spectrum of organisms it catches, all depending on the society in which it is put forward. Last, the intrinsic value argument, which refers solely to the organism as having value in itself. The intrinsic value argument, however, is hard to handle and if it is to make any difference, Arler (2009b: 277) argues that it must distance itself from the disinterested interest argument.

Where Are We Going with Biodiversity and the CFP?

In the 1970s, important fish stocks were threatened from exhaustion, here among herring, cod, mackerel and sole (Raakjær 1994). In 1971, the world catch of fish failed to increase because of overfishing, caused by the intensity of fishing and advancement in fishing equipment (Shackleton 1983). Consequently, the need for international coordination between countries, conservation of fish stocks and management of fishery fleets became apparent (Raakjær 1994). The experience from the North East Atlantic Fisheries Commission had shown that the lack of authority, practically national self-interest, had overruled interests in conservation ecosystems (Shackleton 1983). The EU's Act of Accession that was agreed upon in December 1971, did not, however, include a conservation policy, it only required the establishment of one (Hegland 2004). On the contrary it focused mainly on common organizations of the markets and common structural policies, nevertheless the problems of over-fishing were noted in CEC's work prior to the act:

> Because of the growing problem of over-fishing, the Council has included provisions to safeguard existing resources in territorial water by the introduction of restrictions on the fishing of certain species, and on the use of fishing grounds, techniques and seasons. (CEC 1970: 4)

It was not until 1983 when the CFP was introduced that an actual conservation policy was established, although not to create a new fishery management design, but rather to protect the *status quo* (Symes 1997: 140-2). The CFP brought together three aspects of fisheries management at the European Community level: conservation policy, structural policy, and a market policy (Raakjær 1994). The market policy was created to promote stability by applying common standards in order to optimize quality and to promote rational marketing of fish products. The structural policy was created to ensure that the fishing industry could face international competition, along with goals of increasing productivity such as to create a fair standard of living for the fishing communities and reasonable prices for consumers. The conservation policy was created to ensure that fish stocks remain at healthy levels by managing fish stocks, thus preventing overexploitation by the fishery sector (ibid.: 30-32).

Vital to the study of governmentality is the examination of fields of visibility of government. For example, what does government see and what does it not see? The problem that was visible to the Commission and the reason for creating the CFP (besides the desire for a common market) was that the fish stocks were exhausted and overfished as a result of the way the fisheries were governed—that is, a lack of international coordination.

The Fisheries Tragedy of the Commons; Conservation of Resources

Until the 1970s, it was a widespread belief that the resources of the oceans were inexhaustible. However, all this was about to change with the fisheries' tragedy of the commons. In an article called "The Tragedy of the Commons", Garret Hardin (1968) addressed the problems of sharing a common resource on the principle of freedom to all.[3] Hardin (1968) starts out by picturing a common pasture open to all, a common resource that all herdsmen are free to use. It is given that all herdsmen will try to keep as many animals on the pasture as possible. This does not pose a problem for now because the carrying capacity of the land has not been reached. Meanwhile the population and demand for food grows, consequently, at some point in time the carrying capacity of the commons will be reached. It is at this point in time the tragedy occurs. Hardin (1968: 1244) assumes that all herdsmen are rational beings, which leads them to one question: "What is the utility to me of adding one more animal to my herd?" The positive utility for a single herdsman is nearly plus one, while all herdsmen share the negative utility. This, consequently, means that one herdsman only is responsible by a fraction of minus one. Therefore, the rational herdsman concludes that the only sensible course of action is to add one more animal, and another, and another. The same conclusion is reached by all the other herdsmen and herein is the tragedy. The result according to Hardin (1968: 1244) is dire:

> Ruin is to the destination toward which all men rush, each pursuing his own best interest in a society that believes in the freedom of the commons. Freedom in a commons brings ruin to all. (Hardin 1978: 1244)

Hardin also points specifically to freedoms of the commons other than the pictured pasture and the freedom to breed, among other things "freedom of the seas" where maritime nations "bring species after species of fish and whales closer to extinction" (Hardin 1968: 1245). European fisheries have developed very much according to Hardin's predictions, creating a tragedy of the commons. Fishermen have for a long time freely exploited the seas around Europe; however, when the population and the demand for fish increased the tragedy of the

fisheries occurred. The overall argument being that fishermen and other resource users will prefer decisions and policies that increase short term profits (Hardin 1968).

An analytics of government seeks to unmask the taken for granted nature of rationalities that governments apply in their planning, strategies and policies. It emphasizes the intellectual machinery of political rationalities' ability of "kind-making" and rendering reality thinkable. In Hardin's "Tragedy of the Commons", the herdsmen or in the case of fisheries, fishermen, are rendered thinkable and classified as selfish profit-maximizers. Dean (2009) pointed to the internal rationality about how things are and how they ought to be in certain governmental rationalities. In the context of fisheries the internal rationality can be explained as follows: the common resource (fish) is limited; because all fishermen act as profit-maximizers, they will continue to exploit the seas until they bring *tragedy to all*; in order to conserve the commons it is necessary to govern by setting limits for how much fish can be landed and how big the fleets need to be and so on. It is this kind of rational and thoughtful activity that government needs in order to make planning, strategies, technologies, and mechanisms work in practice. Yet, rationalities do not need to be correct and flawless to be suitable as the principle idea behind a policy. In fact, Hardin's "Tragedy of the Commons" might be far from this. David Feeny et al. (1990: 13) investigate the prediction Hardin's model brings forward and they contradict and reject Hardin's claim, because: "the simple one-to-one relationship between property-rights regime and outcome postulated by Hardin" does not exist.

Apart from creating a usable rationality for governments to utilize, Hardin's herdsman also creates the possibility for incorporating certain collective and individual identities. An analytics of government pays attention to the identities government subscribes to, as well as to the people or populations they govern (Dean 2010). The identity subscribed to the fishermen is that of the selfish profit-maximizer contrary to government, which is seen as economically responsible. However, the fisheries do not only consist of fishermen, but also fishing industries. By distinguishing between the different actors the conclusion becomes somewhat different. Brox (2002) challenges this view by attributing the selfish profit-maximizer to fishing industries (ranging from multi-national corporations to one-man businesses), while giving "household" community fisheries only an "income goal". David Feeny et al. and Brox' views imply that policy design cannot rely on simple models of rational actors to achieve its goals; there is need for a more complex understanding of fisheries than that of Hardin's herdsmen.

Nonetheless, Hardin's "tragedy of the commons" has become the philosophical basis for a central control management regime in the EU (Gray and Hatchard 2003), especially in DG Fish (under the Commission) with a strong connection to the scientific community. Lequesne (2000: 354) points to three core assumptions within the DG Fish: that fishermen have a natural tendency to overfish; that it is the Commission's job to convince member states to adopt conservation regulatory measures; and that it is necessary to produce statistical models and projections on fish stocks in order to convince politicians about the extent of the problem. Furthermore, Hardin's "Tragedy of the Commons" opens up for the development of various tools, instruments, techniques, or in general *techne* for governments to create conservation policy (Charles 1992). In the CFP, a set of *techne* was developed to manage the fisheries such as the Total Allowable Catches-system (TAC), the Multi-Annual Guidance Program (MAGP), and mechanisms of national implementation and regulatory responsibility along with other minor technical measures to secure safe and sustainable exploitation of the fisheries (Raakjær 1994).[4]

In 1983, the Commission issued that: "the conservation and management of Atlantic and North Sea fish stocks are to be controlled by the fixing of *total allowable catches*" (CEC 1983: 3). The TAC-system is the essential mechanisms in the conservation policy of the CFP (Raakjær 1994, 2009). The TACs are fixed in the Council of Ministers on the basis of scien-

tific advice from the International Council for the Exploration of the Sea (ICES) and the Scientific, Technical and Economic Committee for Fisheries (STECF). The TAC is thereafter divided up in quotas, which are then distributed among the member states based on the principle of 'relative stability'. That means that each country receives quotas according to traditional fishing patterns, the special needs of areas heavily dependent on fisheries, and compensation for losses caused by the extension of coastal limits in third-country waters (CEC 1983: 3).

One of the other technical aspects of the CFP is the MAGP, where the aim is to reduce the overcapacity of fishing fleets. The idea is that there are "too many fisheries chasing too few fish" thus calling for a "rationalization" of the fishery from an economic perspective (Charles 1992: 368). The Commission (1992: 25) concluded that there was a large overcapacity in the EU fleet and in order to ensure a coherent balance between fishing capacity and activity, and the size of fish stocks, it was necessary to reduce the level of activity of the fleets. Fishing capacity was then defined in terms of *tonnage* and *engine power*; however, there are many other factors that determine the fishing mortality generated by the fleet. Consequently, the MAGP III and IV failed to prevent the increase in efficiency caused by technological advancement and the problems of overcapacity continued.[5] Instead, the EU abandoned the MAGPs, and in 2003 implemented a strict and simpler "entry-exit" strategy (Raakjær 2009: 81). Furthermore, the success of the conservation policy highly depends on the mechanisms of national implementation and regulatory responsibility—that is to say, that: "the success of conservation policy depends on the degree to which the Member States comply with policies decided at EC level" (Raakjær 2009: 30).

Building on the genealogical analysis of biodiversity, the following question arises: what is the relationship between society and nature in the conservation policy? In terms of taxonomies, the early CFP places an exclusive interest in fish species with commercial value. The defense for biodiversity or the concern for conservation of fish stocks therefore takes its departure in self-centered values, where different species of commercial fish are regarded as a resource, of utility value, a product, or a means of income.

Establishing a Governmentality of Biodiversity

E. O. Wilson first used the term 'biodiversity' in 1985 at the conference National Forum on Biodiversity (NFB). At the NFB conference, Wilson (1988: 3) argued that: "Biological diversity must be treated more seriously as a global resource, to be indexed, used, and above all, preserved". The term was thus partly introduced to make broader groups aware of the problem of the "falling diversity" (Arler 2009a: 16). Debates about biodiversity have since revolved around specific themes or issues, such as: assessment of biodiversity, falling diversity, and the level of human impact on biodiversity. On 5 June 1992, the UN organized a Convention on Biological Diversity (CBD) where the member states agreed on a comprehensive strategy for sustainable development, definitions and goals for the preservation of biodiversity. At the first CBD, member states agreed to be:

> Conscious of the intrinsic value of biological diversity and of the ecological, genetic, social, economic, scientific, educational, cultural, recreational and aesthetic values of biological diversity and its components. (CBD 1992: 1)

That biodiversity now has all these new types of value is somewhat different from the heavy emphasis on self-centered values ascribed to biodiversity in the CFP's conservation policy, where focus was exclusively on the commercial value of fish as a resource. The declaration of these new values brings with it a new discourse that was not encompassed in the field of visibility of the CFP prior to the convention. Government's problem is now not only that

commercial fish stocks are in a crisis, but rather the greater crisis of global loss of biodiversity. The ideas expressed at the CBD forces governments to rethink the way they conceptualize both themselves and fishermen when making new legislation. If we truly are to regard biodiversity as having de-centered and intrinsic value, then fishermen can no longer only be the selfish profit-maximizers and government no longer only economically responsible, they both have a moral imperative to protect and preserve biodiversity.

Since the initial use at the NFB and the CBD in 1992, biodiversity has been used in scientific, ethical, cultural, political, juridical, economic, and administrative debates all over the world (Arler 2009a: 14). Apart from the CBD in 1992, biodiversity has made its way into many international and regional organizations such as: Global Biodiversity Forum (GBF) established in 1993; the Global Biodiversity Information Facility (GBIF), an initiative by OECD in 1999; and The Economics of Ecosystems and Biodiversity (TEEB), started in 2007 by G8 countries. These have different purposes ranging from mapping, assessing, and categorizing, to guiding policy formulation with the aim of preservation of biodiversity.

What these organizations are involved in is the establishment of a governmentality of biodiversity. The organizations all engage in producing *episteme* for the purpose of making governing possible—the GBF by making a forum for scientists, NGOs and other communities a voice in international decision-making. The GBIF is mainly distributing knowledge about biodiversity, whereas TEEB focus on the economic and policy guiding perspectives of rationality production. Nevertheless, biodiversity grew as a particular, historically produced, discourse in a network of "international organizations and northern NGOs to scientists, prospectors, and local communities and social movements" (Escobar 1998: 53-4). As pointed out by Escobar, we could start out by questioning whether biodiversity really exists, and instead place it as an artificial construct, claiming that: "biodiversity does not exist in an absolute sense" (Escobar 1998: 54-5). Biodiversity is rather a discourse that renews the relationship between society and nature, in an all-new narrative that "if you want to save the planet, this is what you must do, and here are the knowledge and resources to do it" (Escobar 1998: 56). This narrative, embedded within the actor network, forms and creates new types of knowledge and truths about biodiversity that can be used to govern:

> Intervention in the network is done by means of models (e.g., of ecosystems, conservation strategies); theories (e.g., of development, restoration); objects (from plants and genes to various technologies); actors (prospectors, taxonomists, planners, experts); strategies (resource management, intellectual property rights). (Escobar 1998: 54)

As highlighted earlier, governmentality studies pay close attention to the *episteme* of government and insist that governments produce truth and apply knowledge, calculation, expertise and strategies in their practices of governing. Furthermore, it stresses the point that this knowledge is not detached reflections of reality, but a socially embedded practice placed in the context of power. By making models and theories, defining objects and forming strategies, scientists and biologists become actors in the game of power concerning the preservation of biodiversity. Here, the governmentality of biodiversity, contrary to the old governmental ideas in the CFP, takes point in de-centered and intrinsic values and wishes to empower the expert.

New Goals for Biodiversity in the EU in 1998

The loss of biodiversity is also a concern for the EU, and in 1998 the Commission published a paper called "A European Community Biodiversity Strategy". The paper deals with challenges of biodiversity loss, drawing upon the new values from the CBD in 1992 for the defense of preserving biodiversity, and a proper response in the form of policy objectives. In the paper, the use of de-centered and intrinsic values becomes clear when fisheries, fishing

and fish stocks not only refers to the commercial value of fish, but also non-target species such as: "molluscs, crustaceans, marine mammals and other marine or estuarine animals" (CEC 1998: 13). Yet no concrete policy formulations are to find in the paper, only objectives and intentions.[6] Nonetheless, in 2001 the heads of states in the EU reached the conclusion to "halt the decline of biodiversity [in the EU] by 2010". In the publication "The European Union's Biodiversity Action Plan - Halting the loss of biodiversity by 2010 – and beyond" from 2008, published in a reader friendly layout, the Commission in the very beginning (page 4) exemplifies in which way biodiversity should be valued:[7]

> Economically, biodiversity sustains our economy and our quality of life. It provides us with a whole range of direct economic benefits that are all too often unrecognised and undervalued.
>
> Emotionally, biodiversity has an intrinsic value. It supports our cultural identity, offers spiritual inspiration and solace, and plays an important role in our mental and physical well-being.
>
> Ethically, we have a moral duty to look after our planet and preserve its richness for the benefit and enjoyment of generations to come. (CEC 2008: 4)

Yet policy makers do not emphasize or have great understanding for deep-ecological arguments for preserving biodiversity (Arler 2009b). So the question remains: how much weight will the 'de-centered and intrinsic values' arguments carry in the political debate? Moreover, and not surprisingly, the CEC emphasizes that safeguarding biodiversity is more than just a moral preoccupation; it is an "economic imperative" (CEC 2008: 4).

Since the 1980s, the CFP has been revised nearly every tenth year and when the Commission published the 1991 report it concluded that "present mechanisms are inadequate" (CEC 1991: III) to secure a sustainable fishery sector, pointing out the need to balance fishing activity and capacity with the size of fish stocks. However, in 2001 the Commission released a Green Paper on the future of the CFP concluding that it had not met the goals from 1991 and further: "The policy has not delivered sustainable exploitation of fisheries resources and will need to be changed if it is to do so" (CEC 2001a: 4).

In previous revisions the Commission had focused exclusively on the commercial fish stocks as a resource with direct utility for society, and that it was inconceivable that fisheries were responsible for the destruction of marine habitats. However, this changed in the 2001 Green Paper where future goals are considered:[8]

> [T]o establish responsible and sustainable fisheries that ensure healthy marine ecosystems maintaining the quality, diversity and availability of marine resources and habitats. To that end there is an urgent need to strengthen and improve the conservation policy in order to reverse the current negative trends of many stocks. (CEC 2001a: 20)

The 2001 Green Paper was followed by CEC's four specific sectorial action plans in the areas of Economic and Development Co-operation, Fisheries, Agriculture and Conservation of Natural Resources (CEC 2001b; Queffelec 2009). However, not much has happened in terms of implementation. In the BAPF, there were not any new ideas on how to manage fisheries. On the contrary, the solution posed was to: "[optimize] the use of available measures under the reformed CFP" (CEC 2006b: 12). However, it should be noted that "long-term management and recovery plans are being developed to help rebuild collapsed fish stocks and maintain others at safe biological levels" (CEC 2008: 15). Nonetheless, a strategy relying on strengthening and improving the conservation policy could prove fatal for biodiversity in EU waters.

The CFP: A Political System in Crisis

The establishment of an Action Plan for Biodiversity does not necessarily mean that preventing further loss of biodiversity will go easy. The CFP is a political system in crisis, where decision-making processes get caught in a "joint decisions trap" (Raakjær 2009: 60)[9]. The following section of the paper will regard the BAPF as an expression of the governmentality of biodiversity, placed in the context of power, that of the CFP, examining the question: who wins and who loses by which mechanisms of power.

One such mechanism is change and political reform. The fisheries in the EU are composed of many different interests. First, the CFP covers different ecosystems (the Baltic Sea, the North Sea, north-western waters, south-western waters, and the Mediterranean Sea); second, the member states have different business structures (from the large-scale, high-tech, and capital-intensive fisheries to the small-scale, low-capital fisheries); and third, the clash of interest between fisheries and conservation interest (Raakjær 2009). Overall there were three political positions expressed in the 2002 reform. First, the Commission that has interest in reforming the CFP, with support from the scientific community in the technocratic and administrative approach, emphasizing the need for radical reforms and a stronger conservation policy. The main strategy employed by the Commission is that power defines reality. With the help of various institutions (e.g., ICES and STECF) and scientists, as this paper has argued, the CEC produces truth, rationality and knowledge about the fishery sector, fishermen, fish stocks, and ecosystems. Second, the network "Friends of Fishing" or *Amis de la Pêche* composed of Spain, Portugal, France, Italy, Greece, and Ireland that has its interest in securing the short-term livelihood of fishermen and fishing communities and is opposed to what they consider an overly-conservationist approach by the Commission. The network itself also engages in production of rationality by making publications on joint conclusions and counter-proposals (Raakjær 2009; Hegland 2004). Third, "Friends of Fish" founded by representatives from Germany, the UK, Sweden, the Netherlands, Belgium, and Denmark that has its interest in reforming the CFP, but in a less radical way than the Commission (Hegland 2004).

In the 2002 reform process, the antagonistic position taken by the "Friends of Fishing" and impartial position taken by "Friends of Fish" has caused an effective deadlock on how the decision-making in the CFP can unfold, which prevents the Council to "elaborate comprehensive strategies for rational changes of the CFP" (Raakjær 2009: 76). Considering Flyvbjerg's proposition that in open confrontations rationality yields to power, the Commission did not do itself or the conservation policy any favors. The Commission, as argued by Hegland (2004), sometimes engages in antagonistic power confrontations with the "Friends of Fishing" network by making exaggerated proposals. The Commission sometimes attempts to win power struggles by pushing arguments further than what is needed. As a Commission official put it in November 2003:

> Any Commission proposal is a sort of mixture of what we honestly believe should be the final outcome and what we need to propose in order to get the final outcome that we want. (Hegland 2004: 60)

All in all, changing and reforming the CFP seems difficult if it ends in open confrontations between the Commission and the "Friends of Fishing" every time reform or change is needed. If rationality, that is the governmentality of biodiversity, has the best possibilities in stable power relations, then rationality ultimately becomes the loser when the main feature of the CFP is unstable power relations dominated by the rationality of power. Consequently, the governmentality of biodiversity seen as rationality will have hard terms if the CFP is to successfully be promoting the use of rationality.

Another mechanism is that of the annual TAC setting. When the TAC setting process is running, most member states tend to follow domestic interests for maximizing fishery activity

and for a joint front against the Commission's proposals. The result is that the Council adopts far higher TACs than recommended by the scientific advice and thereby creates long-term negative consequences for fish stocks and fishery communities. The Commission explains in the Green Paper:

> The current situation of resource depletion results, to a good extent, from setting annual catch limits in excess of those proposed by the Commission on the basis of scientific advice, and from fleet management plans short of those required. Poor enforcement of decisions actually taken has also contributed to over-fishing. [And later added] Difficulties with TACs are due to the Council's systematic fixing, in some cases, at levels higher than indicated in the scientific advice. (CEC 2001a: 4-8)

Raakjær (2009) points to three explanations for this phenomenon: First, that ministers argue for higher TACs because of pressure from domestic fishing sector representatives with short term interest in protecting their business, arguing that survival of fishing communities should be put before fish. Second, that if ministers are too hard on their colleagues one year pushing for lower TACs, they will have a weaker bargaining position the next year—thus, pacifying the decision-making process so that no big changes can be implemented. Third, that ministers intentionally question the scientific assessments processes because if the scientific advice cannot be questioned it ties the system down, which leaves them no room for maneuvers of self-interest and "horse-trading" in the Council. By this example, power defines what becomes considered as knowledge, and the Council treats the rationality of the Commission and the scientific community as rationalization.

The TAC setting mechanism relies heavily on the Council being interested in following the scientific advice from the Commission and scientific community, yet there is no incentive for them to do so. When the TAC setting finally relies on the power of the Council, rationality has a very small chance of success. The result is that the CFP becomes the tragedy it was created to prevent.

Conclusion: Is Sailing in Dead Waters Desirable?

The first section of the paper dealt with the creation of the CFP. The decline of fish stocks due to overfishing was identified as the field of visibility of government. Hardin's "Tragedy of the Commons" was used as a metaphor for what government observed. The "Tragedy of the Commons" was also the main source of knowledge, rationality, and of what could be considered truth. In this governmentality, fishermen and government were attributed certain identities. The fishermen were regarded as profit-maximizers who caused the tragedy of the fisheries. Contrary to this, government was considered as economically responsible and acted to prevent the tragedy. To do this, government relied on the conservation policy that had the TAC system and MAGPs as its main technologies. The CFPs interest in biodiversity was reflected solely in self-centered values, concerned only with the well-being of commercially valued fish stocks. Consequently, the preservation of biodiversity, in a broad sense, did *not* have good conditions.

The second section of the paper dealt with the invention of the concept of biodiversity and the establishment of a governmentality on biodiversity. "The global loss of biodiversity" was found to be the new field of visibility for government. Taking its starting point in mainly decentered and intrinsic values, the knowledge, rationality and truth of the governmentality of biodiversity suggested empowering the experts. The main argument being: "if you want to save the planet, this is what you must do, and here are the knowledge and resources to do it". The identities attributed to both fishermen and government is that they must comply with the moral imperative to protect and preserve biodiversity.

The third section of the paper dealt with the EU's BAPF and the merging of the governmentality of the CFP and that of biodiversity. It was found that the CFP had renewed its field of visibility to include global loss of biodiversity although with some special dedication to the tragedy of the commons. The CEC puts its main argument for the preservation of biodiversity on the economic imperative rather than the moral imperative established in the governmentality of biodiversity. Also, the BAPF seeks mainly to optimize the old *techne* (with only new ones in the making), which could prove fatal for the biodiversity of EU waters.

This brings us to the last point: who wins and who loses by which mechanisms of power? Placing the governmentality of biodiversity as rationality in the context of power it proves ineffective and with no real impact. It would be true to uphold that rationality must see itself outplayed by power in the context of the CFP, and by this Flyvbjerg's (2001:155) dictum proves very useful: power has a rationality that rationality does not know, whereas rationality has no power that power does not know. So to answer the question *how biodiversity is governed within the CFP*, this paper would argue: *poorly*. Nevertheless, it will be interesting to follow the reform process and see how the knowledge-power relations are changing within the CFP.

Notes

1. This paper is based on a 7th semester Development and International Relations project report by the same title. In the rewriting process, I owe a great many thanks to Freja Schaumburg-Müller Pallesen, Dave Allington, and the two reviewers for valuable comments and suggestions.
2. Flyvbjerg (1998: 228) elaborates on formal rationality and realrationalität: "The freedom to interpret and use 'rationality' and 'rationalization' for the purpose of power is a crucial element in enabling power to define reality, hence, an essential feature of the rationality of power".
3. In "Tragedy of the Commons", Hardin was addressing the growing problem of overpopulation arguing that we had to regulate how much humans were allowed to breed. He concluded that "Freedom to breed brings ruin to all" (Hardin 1968: 1248).
4. Various surveillance measures: obligatory logbooks, port inspections, aerial patrols, etc. which the member states are responsible for (CEC 1983: 7).
5. The green paper from the Commission (CEC 2001a: 11) concluded that: "Continuation of the current system would not only be unable to cut the excessive capacity of the fleet but would lead to an increased fishing effort in a situation where the state of the stocks cannot even support the present effort".
6. Nevertheless, in "Fisheries Management and Nature Conservation in the Marine Environment" (1999: 3) the CEC declared that: "interactions between fisheries and marine ecosystems must hence forth be integrated into the CFP".
7. Although some of the arguments can be found in earlier publications (CEC 1998: 1; 2006b: 3) where the arguments are not as clear-cut formulated.
8. Only in the revision of 1992 is it noted that fishery resources form a link in the food chain and that exploitation has an impact on the marine ecosystems, but that it is difficult to assess the global impact of fisheries, as there has been little research carried out in the field (CEC 1992: 21).
9. The "joint decisions trap" was introduced to describe situations in the council based on unanimous decisions. On the contrary, most decisions regarding the CFP are adopted under qualified majority voting. Raakjær uses the term to describe when various groups form a blocking minority. See (Raakjær 2009: 60).

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