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Rooted Rights Systems in Turbulent Water: The Dynamics of Collective Fishing Rights in La Albufera, Valencia, Spain

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Valencia’s Albufera Lake is a wetlands area where different sociolegal systems interact. Its El Palmar community is governed by customary laws for fishing and territorial control. These exist alongside, yet in tension with, governmental laws. This article examines the dynamics of fishing rights, focusing particularly on the conflict between the desire to practice autonomous management and the incursion of outside authorities and third parties seeking to question these arrangements. Hereby, competition between multiple authorities, users, and even nonusers occurs in different arenas, characterized by conflicting normative frameworks. The article analyzes how the fishing community has defended its rooted, customary rights to regulate the Albufera Lake fisheries, against internal and external coalitions and influences that have threatened its structure and collective and individual rights. Their demands are, however, difficult to meet in an unequal power geography, especially since the community has authority over fishing management but not over the lake’s water regime.

Keywords common property, fishing rights, legal pluralism, natural resource conflicts, Spain

The Albufera Natural Park, a few kilometers from the city of Valencia, Spain, is centered around Albufera Lake and other protected wetland areas. The lake, which has been historically closed off from the sea, contains El Palmar, a village on what was formerly an island. As recently as the 1940s it could only be reached by boat. Although formally under the jurisdiction of Valencia Municipal Authority, for centuries many village affairs have actually been run by the fishing community of El Palmar. The community has a village council elected and acting on behalf of...
its members, consisting of a board of directors and a 12-member Advisory Council. They represent the community, which has authority over extraction of fish from the lake. Their fishing rights have been formalized since the late 13th century through a series of Royal Ordinances, Privileges, and Royalties.

El Palmar is the only fishing community in Albufera Lake with the right to fish at fixed locations. The village has a total population of nearly 800, and the village council allocates the right to these fixed sites for each season’s fishing to its members on a lottery basis. The community’s headquarters is the town’s social center, where feasts, exhibitions, and assemblies are held. The community pays the local teacher, brings in the doctor, and pays a pension to retired fishers and their widows. These powers were granted not only by royal authority but also by customary law, operating parallel to the other systems of authority.

Mixed local/legal arrangements are key to day-to-day natural resource management, but practicing and materializing this customary law are not easy. Over the last few decades the defense of fishing rights has become a source of intense conflict. This is partly due to disagreements among families and groups involved in fishing, but much more because of competition between fishers and external authorities and other groups with interests in the use and regulation of the lake. Apart from El Palmar, two other smaller communities (Silla and Catarroja) have fishing rights but relationships are not (any longer) conflictive and intercommunity fishing agreements have been established historically. However, other players, such as representatives of powerful agricultural, industry, and tourism business interests, are increasingly intervening in managing and tapping La Albufera.

The battles are often fierce, since aside from conflicts over how the lake should be managed, the community sees defending the legitimacy of its local authority and fishing rights framework as fundamental to its continued existence. The fishers’ position is worsened by their very complicated political and economic situation; faced by a globalizing economy and an increasingly polluted lake, many families have been forced to leave their fishing-based livelihood or to combine it with tourism activities. At this moment, the fishing collective is composed of 400 members, of whom around 100 members actively practice fishing (with just a few of them being full-time fishers), compared to about 500 active fishing members four decades ago (Claudín 2006; interviews with fishers’ board 2014). In this context, the article examines how their collective rights complexes sustain the social–material foundation of mutually dependent community members while also crucially shaping relations with “the outside.” For fishers, therefore, this “community” existence is not a fact but a constellation that is, at once, threatened, dynamic, and indispensable. We analyze how continued community existence— influenced by globalizing economy and multi-scalar politics—involves maintaining a collective identity, shared norms, and territorial control mechanisms, with physical/organizational boundaries.

This article is based on field research in El Palmar and La Albufera (see Figure 1) undertaken between 2003 and 2011, with follow-up research in 2012, 2013, and 2014. It involved long periods of residence in the area. During 2003–2011, the research (combining 2-week field visits with many stays of several months) was organized to make an ethnographic base study, concentrating on El Palmar community while embedding this village’s relationships in the broader setting of the Albufera Lake and National Park, its neighboring villages, and the regional governance structures and policies of Valencia Province, Valencia Autonomous Community, and, where necessary, Spain. This multiyear, multiscale study consisted of daily observations,
The research has been complemented by a literature review, covering historical and present-day archives and information from the local, provincial, and national press. The article is structured as follows: In the next section, we present a conceptualization of El Palmar’s collective fishing rights amid existing legal complexity. In the third section, against a background of historical legal recognition, we analyze El Palmar’s fishers’ current management norms and organizational practices. This section also describes the conflicts of authority and legitimacy between the community and outside political and bureaucratic interests. Section four offers two illustrative examples of recent sociolegal battles around social justice. These highlight the tensions that customary norms can face in today’s world. Therefore, first, we analyze a conflict over authority and autonomy inside the fishing community after five women from the community applied for fishing rights. Second, we focus on the
ongoing conflict with third parties who challenge the fishers’ community rights, and that is manifested by the fishers’ exclusion from membership of the regional Drainage Board that is responsible for water management in La Albufera. In the last section we reflect on the fundamental problems facing El Palmar community in operating its collective fishing management in an adverse political–economic context and a sociolegal arena in which its autonomy is being increasingly questioned and undermined by external authorities and influences.

Fishing Rights and Legal Pluralism: Some Conceptual Notes

In legal terms, the conceptualization of fishing rights is primarily grounded in formal, legalistic approaches, which have a prescriptive nature. These are often related to government bureaucracy or based on market laws. Such approaches focus on what a fishing rights system “ought to be,” seeking an “objective, generalized” improvement of fishing management. Existing local fishing rights systems are commonly compared to this “ideal” model. They are often judged to be “ineffective,” “traditional,” and “backward,” for not meeting modern criteria demanding clear definitions of property rights—governmental or private (Roth, Boelens, and Zwarteveen 2005; cf. Wiber 2000; Friend and Arthur 2012; Rodriguez de Francisco, Budds, and Boelens 2013). Pluralistic legal conditions are often identified as chaotic, an obstacle to achieving the desired efficiency and transparency (McCay and Jentoft 1998; Jentoft 2004; Boelens and Vos 2012). These formal approaches have been criticized as being economically top-heavy, one-dimensional, and instrumentalist—unable to deal with the complexity of local resource management and issues of sociocultural belonging (e.g., Bavinck 2005; Rudestam 2014).

Through recognizing the existence of plurality of and within normative systems we can better understand the complexities of fishing rights (and those involving other natural resources; Roth et al. 2005). “Legal pluralism” refers to the existence and interaction of different legal orders (governmental and nongovernmental) in a single politico-geographical setting (von Benda-Beckmann 1996). From a pluralistic legal perspective, the notion of “law” extends beyond governmental law and can include customary, religious, and “development project” laws, together with other forms of self-regulation (de Sousa-Santos 1995; von Benda-Beckmann 1996). These normative frameworks do not have equivalent power. Thus, it is crucial to analyze the relationship between law and power in grounded, legally plural situations (Vos and Boelens 2014). In practice, as this case study clearly shows, people often have more than one legal option at their disposal when pursuing their aims (cf. Roth et al. 2005; von Benda-Beckmann, von Benda-Beckmann, and Griffiths 2012). Interest groups—farmers, fishers, governors, politicians, development practitioners, and so on—make selective, strategic choices among these sociolegal options. In these practices of “legal shopping” (von Benda-Beckmann, von Benda-Beckmann, and Spiertz 1998), abstract rules and laws transform into everyday expressions and manifestations of social meaning and relationships (Boelens and Seemann 2014).

In El Palmar, the lake is managed as a shared property system. As in other common property systems, members’ rights and obligations are derived from this collective right. Complex efforts are made to exclude others from fishing and to regulate the admission of new fishing members (cf. Davis and Bailey 1996; Jentoft 2004; Bavinck 2005). However it is more problematic to influence the behavior of third groups who use the lake, such as rice growers, municipalities, tourism companies,
industries, construction enterprises, and so on. Fishing rights are understood as the authorized demand to use part of the productive benefits of fishing, including certain privileges, restrictions, obligations, and sanctions. Privileges concern the rights to access, withdraw (use), operate, and share in decision-making rights regarding the fishing system. In these common-property systems there are two forms of rights: collective and individual. Collective rights cover the group’s right to harvest fish and make collective management decisions vis-à-vis other parties, whose interests may clash with their own. They also determine the collective conditions for access, and prerogatives and obligations undertaken as a group in dealing with third parties. Individual rights define intracollective access to fishing and the respective users’ privileges and obligations. According to agreements with the state, El Palmar has collective and individual rights, also involving the faculty to include/exclude users. However, the power to transfer collective property rights formally lies with the state. As explained in the third section, fishing rights are legally “delegated” by the state to the community, but the lake is legally owned by the Municipality of Valencia.

As cases manifest, such a situation is common in many parts of the world. Schlager and Ostrom (1992, 253), for instance, illustrate how cod trap fisheries in Newfoundland are collectively owned. The berths for the fish traps are allocated by lottery. Only fishermen from the local community can join the lottery. The state has legally established the boundaries of the space over which fisher communities have jurisdiction and operational authority. Similarly, in Turkey, the state leases lagoons to local fishers’ cooperatives and only members of these collectives have fishing rights. To be a member, fishers must live in the adjacent communities and depend solely on fishing income. Members diligently patrol the boundaries of their fishing area to prevent outsiders from intruding (Schlager and Ostrom 1992, 254). Neither of these fisher communities in Newfoundland and Turkey is able to sell its collective and individual fishing rights, since the rights concern state property. This is different from the case of, for instance, Ascension Bay, Mexico, where cooperative members have full rights to access and harvest particular fishing areas and can also decide to sell their rights to fish and manage the fishing spots; they can transfer the fishing areas to third parties (Schlager and Ostrom 1992, 254).

Generally, as in El Palmar, fishers’ rights are legitimized and sanctioned by the elected local authority: individual rights are derived from collective rights. This does not mean that the balance between collective and individual rights is always equitable, harmonious, or coherent. As we examine, collective rights may deny certain individual aspirations, while some individual claims may weaken the fishing community’s management autonomy.

To substantiate collective fishing rights, a fishing organization requires a symbolic basis for its power, ideas, and convictions regarding cooperation and rule enforcement. This requires families to identify with the collective, trust their leaders, share the collectively established norms, and actively participate in relations of reciprocity and exchange. This is void of romanticism; for fishing communities as El Palmar—confronted by harsh economic conditions and unfavorable relationships with outside power groups—local management of the fishing system is complex, a need based on mutual dependence and inherent commitments to work together (cf. Saldías et al. 2012). These are indispensable prerequisites for realizing the right to fish and sharing in the proceeds (cf. Hoogesteger 2013; Rudestam 2014).
La Albufera as a Sociolegal System: Historically Rooted Collective Fishing Norms

Throughout many centuries, the fishing community of El Palmar has devised dynamic local norms that juxtapose the laws of official legislation, including Royal Ordinances, Privileges, and Royalties that regulate the Albufera territory. It traces its origins back to before the founding of the Kingdom of Valencia by Jaime I the Conqueror. On 21 January 1250, the King granted the community the Privilege for fishing. Since the founding of the Kingdom of Valencia, the area has been directly linked to the Crown of Aragón and, subsequently, to the Spanish Royal House. The second Privilege was granted by King Pedro I of Valencia on 2 December 1283. It stipulated that, each year, “four honest men” must be elected from among the community to schedule fishing and the casting of nets. This way, the Albufera fishers obtained self-regulation privileges (Claudín 2006). Examples of later Privileges are the Royal Letters of 20 October 1492, by King Alfonso II, sanctioning the Community House meetings for overall management and conflict resolution, later to be known as the Capitols Board. In 1776, 5 years after Albufera Lake’s ownership transfer to the Spanish Crown, a Royal Order formalized another custom, still in place today: the traditional allocation of fixed fishing areas—the sorteig dels redolins, held every second Sunday in July (Blasco-Ibáñez 1998). Roselló i Verger (1995) explains how in El Palmar the meetings of three boards have become cornerstones in the community’s annual calendar: the Capitols Board, the Redolins Board (allocating fishing areas), and the Accounts Board (bookkeeping). The Law of 1911 produced the last change of property to date, assigning the lake’s ownership to the Municipality of Valencia, effectively executed in 1927. It safeguarded the historical rights owned by the community (Piera 1988; Claudín 2006).

According to local fishers, allotting the already-mentioned redolins make up a crucial element of the fishers’ regulatory system. The redolins are set on the lake bottom, fastened by stakes, from October until the end of April. The rest of the fishing is done from boats, commonly known as albuferenc, 21 hand-spans long, manageable boats. Fishers start out first thing in the morning. The day before, each fisher is advised how many kilos that fisher can catch and sell at the exchange (see later discussion). There is an implicit, fixed agreement among fishers that nothing taken from the lake will be wasted. Fishers often use a palangre trotline, a cord with many smaller cords, a hook at the end, with worms, frogs, or other bait. But the art of “trawling in a circle” (which they call vol) is the most common. When they release the net they make a redo (round), a circle that may be 100 m in diameter, and the fish, attempting to escape, get tangled in the net. After closing the circle, they wait a few minutes and begin retracing their route: gathering the net back in an orderly fashion (Claudín 2006).

“After 30 April, we establish an ‘ecological break’, so that the lake can recover,” a fisher explains (interview 2013). This norm has been established in mutual accordance with the government authority, which is also involved in establishing allowable sizes for fish and net mazes. “For llisa the net size is 3 centimeters, for eels it is 16 millimeters... but we decide about the volumes to be fished. We evaluate the market demand, and match this with asking all fishers how much they want to catch. We don’t want to fish more than we can sell” (interview with fisher leader, 2014). The community has a collective fish-marketing hall, where the catch is weighed for the buyers, and has agreements with restaurants and intermediaries for fish marketing.
A fundamental norm of the fishers is that all catch needs to be processed through the community fish market, to be sold to buyers under collective control. Transgressions are severely punished (interviews 2013 and 2014).

The fishers combine practices, norms, and rights, some of which are regulated by law, others that are located “alongside the law” (neither accepted nor forbidden), and others that are considered to be illegal. A common, current example is to fish in ways or at spots that are officially forbidden, for example, near the lake’s drainage, because fish are tempted to head for the ocean. Fishers spotted there can be fined by municipal guards. Sanctions for rule-breaking are also importantly dealt with within the community, without municipal involvement. An important infraction is, for instance, fishing in the area allotted to another fisher. Repeated transgressions are (progressively) sanctioned, for example, by taking away a fisher’s seasonal fishing rights. A similar essential norm relates to respecting the fishing grounds of, respectively, El Palmar, Silla, and Catarroja (with boats, since only El Palmar has historic rights to redolins; interview with fishers’ board 2013 and 2014).

In the fishers’ daily lives “the community” is a fundamental entity. The schoolteacher, the schoolhouse, the doctor, the clinic, and so on are all “arranged” by the community. Even so, formally, El Palmar is part of the Municipality of Valencia. A council member in Valencia is appointed as sub-mayor. However, any decision concerning local residents would first need to be made by the fishing community. In everything residents do, the community exemplifies legal pluralism. Fisher families, while strategically seeking to take advantage of official laws, are the main “local legislators,” who provide assistance, set prices, resolve disputes, and so on.

At present, the community distributes 4% of what it obtains from fish sales through what it calls Mutual Relief—assistance for retirees or people who fall ill and cannot continue fishing. The date of such a retirement resolution is flexible; while one can still fish, one does not claim this entitlement (Claudín 2006; interview with Board President 2014; El Palmar Book of Proceedings). The community hall is the town’s social center, where fishers have breakfast before going out to fish, family celebrations are held, the Neighborhood Association Board meets, the band plays on St. Cecilia’s day and there are exhibitions, and so on. At the end of the year balances must be settled; earnings from fish sales are invested in improving storage facilities, waterproof clothing, and other materials for common benefit, such as the subsidized diesel depot for fishers.

Workplace collaboration and customary fishing norms, at the heart of El Palmar’s community organization, are by no means fixed. They are often the result of negotiation, and can even be weapons for combat (Sanmartín 1982; interviews 2003–2014). As the interviews with fishers’ leaders manifested, normative dynamics also show in local defense tactics. To defend and legitimize their local rights system, communities such as El Palmar prepare, alongside their “domestic rules for actual fishing practices,” their own (fictitious) rules “for outside use” (Claudín 2006; interview with Board President 2014). Indeed, the fishers produce a world of “facts” to present to officialdom as—production figures, formal rules and protocols—as “masks” or “mimicry shields” (Boelens 2009), to protect and proliferate their customary ruling system.

The community’s recent history shows a hesitant position of fishers under official law. Fishers are aware that official recognition always has been a powerful resource and defense mechanism against intruders. Therefore, they continuously aim to achieve government recognition. Simultaneously, over the last century the newly
evolving national/legal system in “modern Spain” has had increasing difficulty in comprehending the logic and importance of local norms. Modernist lawmakers and policymakers have progressively sidelined El Palmar’s “strange” entanglement of customary with ancient legislation, pressured also by the development of globalizing society and new economic opportunities for the lake (such as rice growing, tourism, real estate business, and urbanization). Especially the last four decades, after return to democracy (1975) and inclusion in the European Union (EU) regulatory framework, have brought ambivalent developments. On the one hand, the policy context has guaranteed greater respect for human rights, environmental care, and cultural specificity—issues largely benefitting this marginalized community. On the other, apart from rapidly intensifying lake pollution, increasingly (neo)liberal policymaking and globalizing competition through opened fishing markets have put the community under great stress. These developments importantly influence the community’s rule-making environment, also coloring the background of the cases illustrated in the following sections. During the last decades, modern liberal principles have regularly served as a pretext to challenge fishers’ authority, with Valencian government dominated by the right-wing Popular Party while the (largely poor) fishing community has traditional left-wing sympathies. In Valencian politics the equality imperative, stressing equal rights, commonly forgot equal distribution to only concentrate on denying the right to be different. Taken together, such political–institutional framing has accentuated the position and norms of the fishers as “anomalous” in the eyes of officialdom (Claudín 2006; interviews 2013 and 2014).

At present, the harsh decline in fishing yields has forced the people to diversify their livelihoods. Some go work in the provincial capital doing whatever jobs they can find, while others remain in the locality operating the hostels and restaurants that have proliferated in recent years. The volumes of fish caught and the number of fishers have decreased significantly in the last few years. Individual fishers may catch 250 kg of llisa per day, but often harvest less than 50 kg per day. Annual llisa harvest oscillates around 300,000 kg for the village, while especially eel catch has dropped over the last years: from more than 100,000 kg per year to only some 5000 kg per year (interviews 2014). Amid the complex conditions for surviving as “fishers,” the fishing community seeks to take advantage of what it considers its own collective property, the lake and its socio-natural surroundings (interviews 2003–2011, 2012–2014). But, as the following examples show, this is quite a complicated task when strong outside pressures strive to delegitimize the local collective authority.

Two Illustrative Sociolegal Battles: Customary Norms, Modernity, and Social Justice

The Fishing Community, Women’s Rights, and Conflicts of Authority and Autonomy

Similar to nation-state and international laws, the norms established in local communities seldom arise solely through rational planning or orderly deliberation. On the contrary, most normative changes happen in response to conflicts and crisis (de Vos, Boelens, and Bustamante 2006; Jentoft et al. 2009). Customary rights are also often the expression of tough negotiations, as track records of both mutual dependence and confrontation (von Benda-Beckmann et al. 1998; Boelens and Seemann 2014). So, too, in El Palmar (Sanchiz-Ibor 2001; Hulshof 2012). One of the
important conflicts in the village history, which began in 1994 and lasted for about 12 years, concentrated on the case of five women from the community who wanted to have fishing rights at fixed sites (see Claudin 2006).

The media and political parties quickly took sides with the five women, considering the fishing community’s hesitation to accept these women as right-holders to be gender-based discrimination (Claudin 2006). However, the fishing community’s attitude was actually based on another set of arguments or sensibilities: In their eyes, first, a faction of wealthy families wanted to take over the community’s collective control and for this they knew precisely how to exert pressure and evade the “normal way of dealing with new requests”; second, this faction directly approached allies in “the outside world” to win its game—the press and the official authorities, represented by the political right—knowing that strategically presenting this as a gender conflict would trigger strong reactions against the community (Claudin 2006). Taken together, the deeply conflictive tone was set from the outset. The dispute gave rise to a fundamental confrontation between the power that could be wielded by external authorities and the legitimacy of collective internal authority. When the conflict was settled, with the women formally “winning,” it emerged that, indeed, this was not a women’s demand to be able to fish but a scheme devised by a larger group, with a right-wing political agenda, who primarily created the conflict as part of a long-standing interfamily feud and who looked for opportunities to seize local governance.

Claudin presents a detailed account of these events in his book Mar Cerrado (2006). He shows how the women had every legitimate right to apply for and get fishing rights, even if they did not choose the most appropriate approach—the existing community modes of entry, through the boards, and waiting for community decision making. The book also shows that the community was legitimately defending its management autonomy, even though it seemed to simply be turning a deaf ear.

The situation seriously escalated when the group of women took the conflict outside the community. They went to the press and the municipal authority, the outside arbiter, even though this was an issue that traditionally would have been settled within the community. The fishers’ board perceived this as a threat to its rulemaking legitimacy and its very existence, making it much harder to come to an agreement; the dispute became very confrontational, splitting neighbors into two opposing factions.

The five women and their families received support from municipal politicians and the press and used these outside agencies to help them wage their battle. On the judicial front they even tried to take the board to court. Yet the fundamental battle did not lie with the norms that barred women’s admission; later, when the official ruling in favor of “the five” was enforced upon the community, it emerged that other women had already been granted fishing rights, and had even been officials on the Board of Directors (Claudin 2006).

From outside, El Palmar community was criticized from all angles. The media played the lead role—providing an often superficial analysis that portrayed a conflict between good and evil, with the fishers being the bad guys who would not grant fishing rights to the women. However, the conflict was not that simple and much damage was done by those who, rather than mediating, prejudged and chose sides. This was done by the most politically powerful stakeholder, the municipality, governed by right-wing forces, but also supported by opposition parties wanting to demonstrate how “modern” and “liberal” they were (Claudin 2006).

As the story unfolded, and the town became radically divided into two, things happened that caused community drama: The first Sunday in July (1999) was the day of
the allocation of redolins, the great annual festival. That year the conflict had come to a head. A court had ruled that the community had to admit the five women, so the community, to dodge that decision, declared a strike, refusing to proceed with the allocation of redolins and admit the five women. Then the municipality (with the agreement of all municipal political parties) made a drastic decision, to allocate the redolins itself. This was the first time in centuries that the allocation had not been conducted by the community board. Although this did not affect the community’s fishing rights, the conflict intensified when the mayor of Valencia organized the sorteig de redolins. The community was indignant and refused to support the outcome.

The following year, 2000, the community took back its authority over the allocation and opened up fishing rights for more women; a year later, “the five” finally entered “by legal imperative.” The conflict was settled not just officially but also in a community assembly, which allowed these women to have fishing rights, too. As before the conflict, new men and women could enter by community decision, following the common procedures. Now, in 2014, the tension has disappeared. The women have fishing rights but do not practice them. According to the respondents, this is due to the hard job of everyday fishing and, most of all, to the hard economic times for all fishers, in a lake that is increasingly polluted (interviews 2014).

What we found is that “the incident” had deeply challenged community rulemaking and its collective decision-making capacity. The community was furious that the conflict was taken to the media, and an outside authority, rather than being settled internally. Members saw themselves as defending their autonomy and legitimacy, which they felt were being challenged, and would not give ground on this issue, steadfastly refusing to give way (Claudín 2006; interviews fishers families 2003–2014).

Fishers and the Drainage Board: The Difficult Defense of Collective Fishing Rights

Legal pluralism in a society commonly takes shape under unequal power conditions. Apart from internal rights conflicts that relate to individual rights inside the fishing community, the community’s collective fishing rights and authority are often under threat when confronting with external authorities and forces. For instance, one crucial issue for the fishers’ livelihoods is the lake’s environmental care, which is directly related to water governance in terms of water quality, water quantity (inflow/outflow), and the lake’s level. Fishers demand clear regulation and practices.

They have good reasons. In the past years, real estate, industrial development, and agriculture (primarily rice growing) have greatly harmed water quality, and inadequate inflows also have had a major effect on fishing interests (Hulshof 2012; interviews 2013 and 2014).

The Lake needs a minimum inflow of good quality water from the spill-overs of the Júcar River, to keep ecology and the fishes alive. Government plans, however, seek to transfer river water to other areas. Also, industrial sectors and rice growers have polluted the water, with chemicals, pesticides and fertilizers. We need a far more strict control.

(Interview with fisher leader, 2014)

Fishers feel that the sharp reduction in water coming from the Júcar River (80% less in just a few years; Hulshof 2012) and the inadequacy of water quality upkeep (Sanchis-Ibor 2001) are constant threats.
Directly related to this is a long-standing demand by fishers in El Palmar to participate on the Drainage Board, from which they are excluded. Drainage Board decisions vitally affect their livelihoods. El Palmar fishers feel that their interests are often secondary to those of the rice farmers (interviews 2013; see also Claudin 2006; Hulshof 2012). As the fishing board president expresses:

The environment is key to the Lake, basic to all forms of life. These days we are organizing manifestations in Valencia to claim for good quality water from the Jucar River. We have presented constructive proposals for a better water management plan. But powerful interests have changed the plans… We have presented our proposals to the [formal] Park Authority…. But it lacks real power to establish water governance over the lake. The Drainage Board monopolizes decision-making. Recently, we submitted a motion but they did not hear us… I really wanted to speak because I hoped for a consensus among all parties. But they only considered the farmers’ interests, because the Drainage Board is fully composed of farmers. Only farmers! While the fishermen have been managing the water during five centuries. (Interview 2014)

The Drainage Board of La Albufera was set up in 1862 and is governed by statutes dating from 1926 (Sanchis-Ibor 2001). The clash between rice farmers and fishers is ancestral, but the Drainage Board has not attempted to settle the situation and effectively sides with the stronger rice growers (Hulshof 2012). The Drainage Board comprises all the landowners around the old boundaries of the lake, has responsibility for regulating the lake’s drainage, and has a wide array of powers. It manages the outlet gates, keeping the water regime at a low level. Its website (http://juntadesaguealbufera.es) states that this approach is very important for all people living and working on its shores. The Drainage Board states that it must “keep the waterways and creek beds clear, facilitate drainage at all times, and constantly ensure that salt water does not get into croplands.” It also claims that this yields “immense benefits and prevents considerable damage to agriculture. Proper water governance is crucial to agricultural prosperity. Without it, farming would perish completely, and the lovely rice fields would become sterile wastelands” (http://juntadesaguealbufera.es).

There are three main canals leading from La Albufera to the sea: Pujol, Perellonet and Perelló (see Figure 1). They have gates that can be opened, at low tide, to release the lake’s waters into the sea. They are closed at high tide or during storms at sea, to prevent salt water from entering. The Drainage Board says, “Given the vital importance of controlling the level of La Albufera to prevent uncontrolled flooding, Puchol and Perellonet canals have water pumps, alongside their gates to make sure water goes out to sea, even in adverse weather conditions” (http://juntadesaguealbufera.es). But according to the fishers, this Drainage Board’s strategy benefits the farmers, at their expense. Appropriate lake levels, inflow/outflow rates, and water oxygenation are, for instance, permanent claims of the fishers, to prevent problems as the (frequent) ones annotated by the Levante daily newspaper:

A vast blanket of dead fish covered the Puchol canal; cleaning personnel from the Municipality picked up as much as 2500 kilos of llisas, after the canal operators reported a major fish die-off. Apparently the lack of
sufficient flow, because of the prolonged closing of the gates and the heat are factors that have reduced the oxygen content of lake water, which ended up killing the fish, who were searching for a way out in order to be able to breathe. (Levante 7 July 2008)

The fishing community has also made several requests for the canals to be dredged of sand, to make it easier for fish to enter the lake (Hulshof 2012; interviews 2013 and 2014). They are only infrequently cleared. Next, fishers also oppose the low water level maintained in La Albufera, even during the rainy season. “It is only the Drainage Board that defines the lake level, and based on just farmer needs” (interview with fisher, 2014). Fishers also say it is pointless to pump lake water into the sea, because the region faces sometimes prolonged periods of drought, and that a slightly higher water level would not harm the rice fields. Fishers assert that the pumps by the gates were only installed for emergency use but are used far more frequently. They also argue that the inflow of fresh water entering La Albufera must be increased, but that the regionally powerful Drainage Board fails to take any action to that respect, ignoring their arguments and interests (Hulshof 2012; interviews 2013 and 2014).

Therefore, as mentioned, fishers’ leaders have made repeated attempts to share in decision making and rulemaking:

Formally the Major of Valencia presides the Drainage Board but this task is always delegated to the acting board president [a farmer leader]. Only rice growers are represented while our environmental and cultural-economic interests are neglected. We want to enter the Board, too. For this we have often claimed to change the norms: because now, you have to be a land owner. (interview with fisher leader, 2014)

Fishers have protested also in formal petitions against these agriculture-biased criteria—for instance, filing a complaint against the norm that “to join the Drainage Board, minimum land ownership is 20 hanegadas.”5 Similarly, this 2012 motion, as do many other petitions, demands that “the Drainage Board needs representation by all the sectors that are affected by the Lake’s water management actions” (motion of the fishing community to the municipality, 20 March 2012). As fishers see it, taking part in the Drainage Board is the only way that the fishers’ interests can be properly protected. The current president of fisher community says, “We will continue fighting!”

Reflections
In this article we have analyzed the dynamics of the fishing community of El Palmar in Valencia and its collective rights as developed over many centuries. This heterogeneous community seeks to maintain collective control over the lake’s natural resources. Like any collective, it contains a diversity of families and individuals, who sometimes come into conflict with one another. They are, however, united by their intense mutual dependence to develop, use, and manage their shared resources.

The rights, norms, and rules that govern fishing affairs are more than the sum of individual fishers’ economic interests, rationally calculated, weighing up the costs and benefits of collective actions. El Palmar fishing economy institutions are rational, but not necessarily all of the rules, relations, and behaviors are established
rationally. They are the outgrowths of historical and contemporary events, of context-specific trial-and-error, of opportunities and limitations on power, and of neighboring and supralocal institutions that are incorporated. Understanding collective and individual fishing rights involves scrutinizing local reasoning and practice, in the multilayered political economy and cultural setting of La Albufera. This involves debunking the often dogmatic myths on which romantic, rationalistic, or economicist approaches are based.

In everyday practice, members identify with the community and its fishing system; apart from providing them with the material basis of their livelihoods, it also gives their lives social and cultural meaning. For members, assertion of their collective rights and identity is central to guaranteeing their access to the lake’s natural resources, and maintaining their own system of social security and redistribution in times of crisis. This involves more than solidarity—it is obligatory reciprocity. Family units by themselves are unable to provide all of the social and material infrastructure required for fishing. For this purpose, it is crucial that the community sets clear, shared limits and rules about belonging, operating, and sustaining the system.

Thus, in this porous, fluid, transcultural and multiscale scenario, the existence of the community of fishers, even though fishers are internally differentiated, requires a collective identity, demands a shared normative system, and needs a territorial control mechanism that must be limited by physical–natural–human boundaries. This becomes manifest in everyday fishing practices (Claudin 2006; field observations and interviews 2003–2014), is expressed in their claims (fishing community’s motion 2012; interviews 2013 and 2014), and is key to internal and external conflicts over villagers’ fishing rights (inclusion/exclusion) and multi-actor platform struggles (Sanchiz-Ibor 2001; Hulshof 2012). However, these physical and normative boundaries are not “given” but are the outcome of ongoing processes. The fishers create scenarios and engage in battles at different scales. Diverse stakeholders encounter to reach an agreement among different interests. These are the arenas where they determine the rights and rules and materialize strategies for collective resource management, trying, as much as possible, to control risks and contingencies.

While confronting third parties in defense of their collective rights and authority over “their lake,” the common property organization itself is both an arena of power struggles and conflict negotiation and a collective entity. In these conflicts over the distribution of the benefits and burdens of fishing and the claims regarding individual rights, the various groups often appeal to different normative systems to settle the conflict in their favor (“legal shopping”). This makes local rulemaking more dynamic but also places collective rule under pressure. The capacity of the local normative system to accommodate these “external” normative forces, and to withstand individualizing forces, determines whether local law is consolidated or weakened.

This is illustrated by the “women’s case.” The conflict, setting the town against itself, focused on five women who wanted to be fishers. However, the confrontation mounted to dangerous levels, not so much because some women legitimately wanted to have the same rights as men to fish, but because the women and a group of their supporters took the conflict outside the community, to the media (which sensationalized the story), to the judiciary, and to external politicians with short-term, modernist electoral interests. The sociopolitical foundations of the town trembled, because this challenged the collective’s authority.
The conflict with the five women hinged upon the contents of individual rights. These individual rights (located within, and derived from, collective rights) have an important internal function, of establishing relationships among fishers who are associated for that purpose, determining each one’s rights and obligations. Collective fishing rights, in turn, have an important function external to the local system. This is reflected (among other ways) in the defense of local law and its autonomy vis-à-vis other stakeholders and other normative systems.

We presented another illustration to examine this phenomenon: the disputed authority of the community and its collective fishing rights in influencing lake management, an arena involving multiple sectors with divergent interests. In this case, La Albufera Drainage Board, which should represent all the diverse interests, decides whether, when, and how to drain (or not) the lake’s water into the sea. The fishers feel that this benefits the rice farmers, who are better allied with official authorities. The example shows how difficult it is to defend collective fishing rights when the area being managed involves other rights-holders, and where the collective resource is a contested, multiscale asset over which the fishing community does not have decision-making power.

The case also shows that natural resource management policymaking and implementation, beyond rational and technical–scientific planning, are complex processes of formal and less formal, open and concealed negotiations among authorities and interest groups with unequal power (Boelens and Post Uiterweer 2013). Moreover, alongside “internal” disputes within the common property group and “external” struggles vis-à-vis third parties interested in tapping the common resource, the cases reveal a conflict between the community’s local authority/legitimacy and the positivist legal system’s formal authority. Despite recognition of normative plurality in Valencia, there are many difficulties in materializing such notions. Both the imposition of bureaucratic regulations, and the adhesion to universalist market-driven prescriptions, jeopardize the collective fishing rights. Even though the community’s right to fish has been formally legalized for centuries, confrontations recurrently arise in which the state and its administrative institutions defy local sociolegal norms and repertoires regarding democracy and authority. As a result, concrete protection of collective fishing rights in La Albufera is not guaranteed.

However, pluralism in the context of multi-authority management and common law as practiced in La Albufera cannot be negated by official decrees, imposing a single positive normative system, or by market regulation. These will never resolve underlying management conflicts. Amid adverse economic conditions, competing political influences, and the hegemonic powers that surround and penetrate the fishing community of El Palmar, it is a challenge to maintain and reproduce a “community.” This task calls for the collective defense of the community’s material–economic foundations and creating and reaffirming shared norms, values, rights, and symbols. La Albufera and its fishers are sailing on murky, turbulent waters.

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Notes

1. Historically, the lake was a brackish water inland sea. In the 18th century the area became naturally closed off from the sea and turned into a freshwater lake. It has a surface area of 2,500 ha, a mean depth of nearly 1 m, and is surrounded by rice wetlands (18,000 ha), all of which form the Natural Park (21,000 ha) (Hulshof 2012).

2. In-depth interviews (89) for the base study (2003–2011) were held with local/regional informants, selected for being main actors or key informants on the conflicts: El Palmar fishers (25), Valencia Municipality officials (2), government institutes’ representatives (3), research centers (4), tourism enterprises (2), rice growers (8), local industries (3), and construction companies (2); as well as El Palmar neighbors (10), Albufera municipalities’ representatives (10), cultural associations representatives in the area (6), fish vendors (4), journalists following the process (8), and Albufera Lake specialists (2).

In January–August 2012, complementary field research (26 interviews; see also Hulshof 2012) was done, and in June 2013 and June–July 2014 the authors supervised two research teams to actualize and finalize the overview, totaling 35 additional interviews (respectively 10 and 25 interviews). Interviews were done in Spanish (fluently spoken by the authors). Summaries and conclusions were cross-checked with literature and field observations. During the research periods (2003–2011 and follow-up 2012, 2013, and 2014), where possible, all relevant meetings were attended, both public and private. Generally, fishing community, court, and governmental public meetings were accessible; this was different for the strongly closed/inaccessible gatherings of the Drainage Board.

3. In general terms, El Palmar fishing rights establish who has the right to fish; the conditions/criteria for obtaining rights; how, when, where, and how much each can fish; the obligations for maintaining the right; the penalties for infractions; members’ participation in deciding about fishing management (e.g., admission of new members; changes in regulations; agreements with third parties); participation in social/political/cultural fishing community activities; and eligibility for management positions (interviews with fishermen, 2003–2014).

4. Note also the fundamental difference between legalized customary laws (“attorneys’ customary law,” von Benda-Beckmann et al. 1998) and the people’s customary laws, which live dynamically in the field.

5. 1 Valencian hanegada = 831 m².

References


