

AN ETHICAL ISSUE IN ANTI-COMMONS MANAGEMENT. AQUACULTURE CASE IN PORTUGAL

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ABSTRACT

Ethical problems are a very relevant issue present in many aspects of real life. These situations can be examined through several branches and under several ways or grids of analysis, modern or classic. The relationship among people, either in business or current life management, involves problematic aspects in real life situations, which have often ethical consequences.

Anti-Commons Theory is a very recent development in the area of property rights. It intends to explain why an "anti-commons" emerges and why resources may be prone to under-use. In an anti-commons situation there are too many exclusion rights that lead to the under-use of resources.

In Portugal, too many people (and institutions) are involved in the approval processes of aquaculture projects. They may be involved in reaching a decision about the approval of a project which gives rise to the under-utilization of the resources that promoters aimed to exploit. In fact, it takes so long to approve a project that the time required for its implementation is excessively delayed.

An ethical problem rises with this phenomenon. In these cases, projects may not go forward and all the amounts spent in the project will be lost. Often, a viable project simply is gone, with the inherent losses of value.

Key words: Anti-commons, Anti-commons Tragedy, Property Rights, Exclusion Rights, Ethics

1. INTRODUCTION

Since Hardin (1968) the problem of Commons is very often used to show how resources are overexploited and how ethical problems are raised.

The second half of the 20th century has demonstrated the considerable problems caused by under-defined property rights as it is the case of common-pool resources. Hardin has shown as a resource is prone to be overused when too many people have the privilege to use it and no one has the right of excluding others (see Filipe, 2006; see also Filipe *et al*, 2006a and Filipe *et al*, 2006b).

In such a situation of a Tragedy of the Commons very important ethical problems are created. The overexploitation of resources is discarding the availability of the resources for the next generations because resources may end or they may get exhausted. Many situations can be seen about it in the last decades: for example, the collapse of several species and their fishing stocks; or the collapse of many forests in the world.

Many questions have been raised in the discussion on property rights. In the 1980's a new approach to these issues was posed, about the excessive fragmentation of property rights. Such a situation has been classified as anti-commons. Michelman (1982) presented the anti-commons as "a type of property in which everyone always has rights respecting the objects in the regime, and no one is ever privileged to use any of them except as particularly authorized by others". Later, Heller (1998) stated that in an anti-commons situation there is a property regime in which numerous owners hold effective exclusion rights over a scarce resource. Therefore, the coexistence of multiple exclusion rights creates conditions for the suboptimal use of the common resource, with consequent effects on ethics.

In this situation, many ethical situations may be posed. For example, each agent's veto power makes that a resource may rest idle or sub-utilized. Often, this resource is important for one specific agent that has its co-proprietorship but has not the right of using it without the consent of the others.

Consequently, as it could be seen before, commons and anti-commons can be viewed as the both sides of a coin.

2. TRAGEDIES ON ANTI-COMMONS

The undefined limits for property rights trigger several problems that are expressed by the under-use of the resources as well as by loss of value when anti-commons are present. Indeed, an anti-commons problem produces tragedies which are seen as the mirror effect when they are compared with the tragedies of the commons. In fact, a "tragedy of the anti-commons" occurs when multiple agents have the right to exclude others from the use of a scarce resource but none of them has an effective privilege of using it. When several agents may take decisions about how to use a specific resource which is jointly held and exploited by all of them, and when one of them may impose his/her own decision on the others, imposing his/her veto power, we are faced with this kind of anti-commons problem. In this situation, all the agents must agree on the utilization given to the jointly used resource otherwise the resource may simply not be used or be underused.

One way of overcoming the inherent problems of anti-commons situations is to gather all the rights in a usable private property. However, this is often slow and complex (Filipe *et al*, 2007).

"Tragedy of the Anti-commons" can be found when resources remain idle even in the economic region of positive marginal productivity. Acting under conditions of individualistic competition, exclusion rights will be exercised even when the use of the common resource by one agent could yield net social benefits.

3. AQUACULTURE PROJECTS IN PORTUGAL AND ANTI-COMMONS

The problem of anti-commons may be studied in Portugal for projects in aquaculture area. Many entities must give their approval for a project to be implemented and all the administrative procedures motivate a situation of delayed global authorization. Many interesting and profitable projects, fishing-friendly and viable will simply not begin to be exploited because there are just too many exclusion rights. Even when there is an agent that wants to exploit a resource with important economic, biological and social consequences, bureaucracy and administrative procedures simply make the project unviable, with important loss of value. Value has been destroyed because many financial resources were required for the project but no value has been created due to the delay in approval. The agent who supports the project loses an important amount of time to implement it and the invested money because of the existence of a period of no production. In many situations, projects are not implemented because the right moment for it has gone.

This view is consistent with the suggestion of Buchanan and Yoon (2000) that the anti-commons construction offers an analytical means of isolating a central feature of "sometimes disparate institutional structures".

The inefficiencies introduced by overlapping and intrusive regulatory bureaucracies are widely recognized and may be studied with the help of anti-commons conceptualization. When an entrepreneur seeks to invest in an aquaculture project and the action is inhibited by the need to obtain permits from various national and regional agencies, each of which holds effective exclusion rights on the project, the mirror effect of the "tragedy of the commons" can be found.

4. CONSIDERATIONS ABOUT ETHICS

Two main ethical points are raised about this matter:

1. There are too many regulators. Projects must be analyzed by every one of them. Too much time to overpass all the steps. When they are ready for implementation it is too late. There were too many resources spent on the project and the project simply is now unviable. An ethical question is posed. The project is viable and may create value for the investor and for the community but the time wasted in bureaucratic analysis makes the right time for the project implementation to be unviable. A considerable amount of money and time was spent in the project for nothing.

2. Sometimes there are conflicting interests considering the promoters of the project (investors) and entities who are analyzing the project. These entities make things to slow down. And projects rest too long in the cabinets to be studied. Projects got unviable because a conflicting problem of interests. Again an ethical question is posed.

5. CONCLUDING REMARKS

Aquaculture exploitation in Portugal, like it happens in other countries, involves many bureaucratic questions (Buchanan and Yoon, 2000) and with this, some ethical questions rise. Some important measures are needed and it is necessary to change structures and behaviors. Legislation must be recovered to avoid this kind of procedures and clean up this kind of obstruction structures and lobby organizations.

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