

# FISHERIES MANAGEMENT IN CRISIS

EDITED BY  
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## Chapter 9

# Ancient Institutions Confronting Change: the Catalan Fishermen's *Cofradías*

JUAN-LUIS ALEGRET

### Introduction – Spain's entry into the European Union

Spain has been a member of the European Union since 1987. In the long process of negotiations which preceded its incorporation as a full member, one of the most difficult topics to negotiate was that of the sea fisheries. The reasons for these difficulties were many and varied:

- the vastness of the Spanish fishing fleet in comparison to those of the other member countries;
- the historical fishing rights of the Spanish fleet in certain areas now pertaining to the Union;
- the importance of the Spanish fish market and a food culture which makes Spain one of the principal consumers and importers of fish in the European Union.

All these factors made for a long and complex process of negotiation, culminating in an Adhesion Treaty that has led to a paradoxical situation concerning the fishing sector; eight years after formal incorporation into the Union, Spain still does not have equal rights with the other countries which form the common fishing market, the so-called Blue Europe.

The majority of agreements reached in this transitional process make reference to the new conditions of access for the Spanish fleet to the Union's fishing grounds. They also refer to other subjects such as:

- the reduction in size and restructuring of the Spanish fishing fleet;
- reduction in fishing effort;
- reorganization of markets;
- free circulation of fish products, etc.

A great deal of information on their importance and, above all, on the problems of applying these norms within the EU, has been published in the press mainly concerning the conflicts between different countries and different fleets and over the use of different kinds of gear. However, a considerable part of these agreements could not be applied *in toto* to Spanish maritime space or to the Spanish fleet. Indeed, areas such as the Mediterranean saw themselves in part excluded when these agreements were put into practice, since the Common Fisheries Policy (CFP) of the EU had still not been imple-

mented, and the member states had not, at that time, extended their exclusive economic zones out as far as 200 miles.

From the moment of joining the EU, Spain became part of Blue Europe, with all the consequences that this entailed. However, with regard to the regulation of access to resources, and the rules covering fishing gear (and given that no CFP existed for the Mediterranean Sea), Spain continued to apply its own norms along with the other Mediterranean coastal members states. For this reason the fleets which operate in the Mediterranean have so far remained unaffected by the restriction of access to their traditional fishing grounds outside the 12-mile limit. Nor have limits been imposed upon the size of the catch, as quotas, or other similar output restrictions, do not yet apply.

### New rules of commercialization

The factor which has most directly altered the activity in the Spanish Mediterranean fishing sector, and more specifically in Catalonia, has been the free trade in fishery products and the correlated restructuring of markets and prices. The immediate consequence of this has been the appearance of new rules in the process of commercialization. These new rules greatly affected the whole of the sector, penetrating well beyond the market itself. According to all forecasts, one of the aspects in the Catalan fishing sector which should have suffered a major transformation, apart from the market, was the traditional fishermen's organization: the *cofradía*. The reason is that these organizations do not formally conform to the model of producers' organizations (POs) introduced by the EU, and which serve as a pattern of association through which to structure the market.

According to European Union legislation a PO is 'any organization constituted by initiative of the producers with the aim of adopting the measures necessary to guarantee rational exercising of fishing activities and the improvement of the conditions of sale of its production' (EU Regulation 3796/81). According to these same norms, for a PO to be recognized, certain requirements must be complied with. For instance, it must provide evidence of sufficient economic activity. It must also exclude, within the limits of its jurisdiction, all discrimination against nationality or place of establishment; it must possess the necessary juridical capacity, etc. (Article 2 Regulation of 3796/91).

The *cofradías* are, however, ineligible for subsidies to maintain the minimum withdrawal price of certain pelagic species such as the sardine since, according to the regulations, the *cofradías* do not comply with the minimum requirements for guaranteeing a correct usage of the funds.

### Institutional reform

As a result of this new situation in relation to the *cofradías*, created by the incorporation of Spain into Blue Europe, a campaign was carried out within part of the Spanish fishing sector with the objective of making the *cofradías* disappear, or, at least, of transforming them into POs. In this way the *cofradías* could adapt to the conditions laid down by the new Union order. However, if an analysis is made of the different kinds of arguments which were used to justify this objective, it can be seen that they went beyond the strictly juridical aspects of the application of Union norms, and entered the territory of political,

economic and social considerations, revealing that interests other than those being professed were in fact the real objectives of this campaign.

The arguments which were given in order to justify this necessity for institutional reform were many and varied. It was claimed by different parties, and in different ways, that:

- the *cofradías* were public law institutions and therefore not independent from the State;
- they were co-operative organizations and therefore not democratic;
- they were organizations with a structure which cannot adjust to the efficient model of POs proposed by the EU;
- they were organizations which do not represent the interests of the merchants; and
- they were a relic from the past that must be overthrown in the name of modernity.

But these arguments, besides revealing a clear political purpose, in many cases only demonstrated considerable ignorance of the true social dimension of these organizations. In this sense, it is not surprising therefore that the campaign, which would have resulted in the disappearance of the *cofradías*, met with complete failure, despite the political pressure which was placed upon them. The proof of this is that not one single PO is functioning in the Mediterranean sea-fishing zones at the present time, despite the fact that this is the organizational model proposed by the Union, and the only one which was defended by the Spanish Government. The setting up of POs for the offshore fisheries had been proposed by the Ministerio de Agricultura, Pesca y Alimentación (MAPA) in 1986 as part of a strategy for adaptation to future EU norms. In principle 40 POs were to be created for the whole of Spain; of these six were to be located on the Mediterranean coast.

#### **The *cofradía*: an enduring institution**

At the present time, the only fishermen's organizations on the Catalan coast with the capability to represent the interests of the fishing sector as a whole are the *cofradías*. Several other organizations do exist including the Vessel Owners Association, trade unions and co-operatives. But these associations do not carry enough socio-political weight to represent the interests of the whole fishing sector by themselves, and thus the *cofradías* are the only organizations with recognized representation and legitimacy (see Alegret, forthcoming). The first conclusion that we can draw from this situation is that any intended institutional restructuring of the Mediterranean fishing sector both generally in Spain and, more concretely, in Catalonia should include, at least, the participation of these established organizations.

Formally the *cofradías* were Public Law institutions, which pre-supposes that they depended directly upon the State for their creation, internal structuring, and the dissolution and election of their management boards. They are regulated by the State through the RD 670/1978 and in Catalonia they now depend directly on the Autonomous Regional Government (Generalitat de Catalunya) in accordance with the Central Government RD 1137/1978 and the Regional Government D152/1992. From these characteristics it may be inferred that the *cofradías* have the same kind of structure, and function in the same way, as ancient guilds or corporations. However, the legitimacy of their representative function is obtained from, and maintained by, diverse sources other than the formal legitimacy granted to them by law.

The *cofradías'* principal source of legitimacy, and therefore the strength of their representative nature, comes from the fact that, formally, they are co-operative organizations recognized by the law (Alegret, 1990). The main characteristic is that they represent simultaneously both parts of the production sector: the social part (the workers) and the economic part (the shipowners). However, this peculiarity becomes one of the first obstacles in the process of compulsory transformation of these entities into POs.

On a second level, the need for restructuring the associative network in the Catalan fishing sector is justified fundamentally from two points of view.

The first argument makes reference to political aspects, more specifically to the need to eliminate State intervention in the associative fishing sector. Organically, the *cofradías* depend upon the State and therefore have certain rights and obligations towards the State, since there are 'organs of consultation and collaboration with the Administration on subjects of general interest referring to extractive fishing activities and commercialization' (RD 670/1978). From this perspective, it is argued that the direct intervention of the State through the *cofradías* is incompatible with the regulation laid down by the EU.

The second argument makes reference to the need to conform to the demands of the EU on subjects such as the democratization of organizational structures, liberalization of the market, and free access to resources for all members of the EU, as well as limitations on extractive activity imposed by the CFP.

#### ***Cofradías* and producers' organizations compared**

In order to reach an understanding of the reasons for this failure in the implementation of POs in the Catalan fishing sector, it is necessary to identify some of the fundamental differences which exist between the *cofradías* and the POs. Through this comparison we will be able to see how any movement towards institutional re-structuring which is attempted without taking into account the social characteristics of these institutions, will not only be doomed to failure but will cause more problems than it attempts to solve.

Between the *cofradías* and producers' organizations there exist certain basic structural and functional differences which may be summarized as follows.

First, POs are organizations which exist due to the initiative of the producers while the *cofradías*, as Public Law Corporations, are created in law by the State. This supposes that the *cofradías*, being subject to public law, cannot be created or run as private organizations. Because of this, the European Union's requirement for the constitution of organizations through the initiative of the producers is not complied with.

Second, *cofradías* are organizations composed of workers and vessel owners, while POs are organizations constituted by producers. According to EU legislation, fish producers are those persons or organizations which market the products which derive from fishing. This is because the POs are regulated within the framework of the organization of the Common Market, and for this reason, when we speak of producers we refer to economic agents who intervene in the commercialization of fishery products, and not to the social actors related directly with the fishing activity.

Third, POs are organizations with juridical capacity for adopting certain measures which will perforce be complied with by their members. The *cofradías*, on the other hand are merely consultative organizations, since it is the State which decrees the aforesaid measures, and these are normally universal in character.

Fourth, *cofradías* are organized according to geographical areas, corresponding to the territorial limits of residence and influence of the fishing communities. The POs, on the other hand, are organized within 'material boundaries'; in other words it is the aims of the association which impose limits and limitations, such as the amount of certain species of fish to be caught, according to the targets of the association.

Finally, the *cofradías* are organizations with a functional structure intended to defend the social interests of the whole fishing community (regulation of access to resources, resolution of conflicts, organization of first sales for all vessels, organization of common services, etc.), which is why they are organized according to geographical areas. The POs, by contrast, have a structure intended to defend only the economic interests of a specific group of producers and dealers, which is why they are not organized according to territorial areas and why they cannot exclude any potential member for territorial reasons alone.

### The ideology of co-participation

It comes as no surprise, therefore, that any attempt at institutional restructuring which would transform the *cofradías* into POs will provoke the disappearance of the principal element of socio-political integration which exists in the Catalan fishing communities today, and which reveals itself through an 'ideology of co-participation' in the public affairs of fishing activities, shared by all the members of the community.

This ideology is embodied in, amongst other things, the very existence and defence of the *cofradías* by the whole of the community, as well as in the individual loyalty to the organization expressed by each and every member of the community. This ideology of co-participation may be seen in some of the current characteristics of fishing activities in Catalonia and, more specifically, in the socio-political and economic roles that these organizations play.

(1) The *cofradías* are *de facto* and *de jure* representatives of all the fishing fleet. This fact means that the *cofradías* cannot represent one particular segment of the fishing fleet and must act in the representation of the interests of all segments, simultaneously. The immediate consequence of this is that between the different segments a feeling of belonging to a single group of shared interests is generated, independent of the segment to which the individual belongs. Membership of this group is founded upon the opposition between fishing and non-fishing interests, whether the latter be construed as the central or regional administration or whatsoever other group not directly dedicated to fishing and which, therefore, is not a member of the fishing community nor of the 'brotherhood' (a literal translation of *cofradía*).

This feeling of belonging to one group of common interests is what causes the *cofradía*, and more specifically, its Patron Mayor (President), to be considered as the ideal mediator for the solution of conflicts or problems which arise between the different parts of the group. The viability of this function is demonstrated by the low incidence of recourse to the judicial system for the solution of conflicts.

(2) On the boards of directors of the *cofradías* there is equal participation from both the work force and the vessel owners. This fact, which is determined by law, generates among crew members and owners a feeling of belonging to the same organization, recognizing that the *cofradías* represent jointly the interests of both 'constituencies' and

is therefore the most suitable organization to mediate in the resolution of conflicts which may arise between them.

(3) *Cofradías* exercise direct control over the first-hand sales of fish through the organization of the fish auction. This produces a feeling of security between crew members and vessel owners in face of the laws of the market; this mutual security is translated into the control that the *cofradías* exercise over the auctioning of the catch. At present, the auction markets in Catalonia – as elsewhere in Mediterranean Spain – are under the direct control of the *cofradías* as assigned to them by the State. This is in point of fact an administrative concession that could be assigned to other public or private institutions. Control of first hand sales by the *cofradías* is considered by the fishermen to be the best system for defending their interests against those of the merchants. In addition *cofradías* are the principal means of financial assistance, which further reinforces the idea of belonging to a single community through membership of *cofradía*.

(4) The territorial identity of the *cofradía* further underpins the sense of belonging to a single professional community, all parts of which conduct their roles within the production process within the defined territorial ambit of the *cofradía*, independent of whether the person is a vessel owner or crew man, or belongs to one sector of the fleet or another.

(5) Within the fishing sector, the prevalence of the share system of remuneration establishes a very different kind of working relationship to that found in any other sector of the economy. This generates a feeling of co-participation between crew members and vessel owners in the profits accruing from the production process, which allows them to justify both their low mean annual real income, as well as its insecurity and the haphazard nature. Finally, it also goes some way towards explaining the inability of trade unions to penetrate an area in which the logic of contractual salary relations is not the principle around which labour relations are organized.

### Conclusion

One conclusion that may be drawn from the above discussion is that no attempt to restructure aspects of the current organizational system of the fishing sector in the Catalan region of the Mediterranean can be undertaken without affecting the system as a whole. This might even lead to the total de-structuring of the sector and the surfacing of a range of conflicts which at present are contained and controlled within the existing organizations.

The principal manifestation of this hypothetical de-structuring could arise from the fact that, if the *cofradías* as such ceased to exist, the sector might cease its policy of self-regulation in all those aspects in which it is currently active. This self-regulation has great socio-political importance, since it concerns such areas as the organization of access to resources, the establishment of fishing zones and timetables for leaving and entering the fishing ports, the organization of first-hand sales through auctions, the collection of taxes, the authorization for ships to establish their base in a certain port, the elaboration of statistics and, perhaps most important of all, the resolution of conflicts from within the organization, without the need to appeal to the jurisdiction of external agents.

In the light of all this, should a process of transforming the *cofradías* into producer organizations occur, it seems logical to conclude that the social and political roles of the

former could not be taken over by the latter; and this would force the State to intervene directly in the regulation of all those aspects which the 'laws of the market' do not cover. If this situation were to occur, it is obvious that the ensuing social, political and ecological costs would be astronomical in comparison to the problems which the process was intended to solve.

Perhaps for this reason the *cofradías* will continue in existence, despite the compulsory nature of the new European 'logic', and the efforts made to transform them into POs. Perhaps for this reason also, the new CFP for the Mediterranean, rather than starting from the premise that all institutions which do not conform to its model must, a priori, be restructured, should take into account other kinds of solutions. This would involve the adaptation of the model to suit the historical, political, and social conditions which the current institutions merely reflect – institutions which manifestly fulfil functions that are possibly more important than strictly economic ones. For this same reason it would seem wise to remind those responsible for the formulation of European Union policies that no viable economic union will be possible except where appropriate social and political conditions are created. Moreover, sea fisheries will not prove the exception to the rule.

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