Law & Society REVIEW

Toward a Theory of Compliance in State-Regulated Livelihoods: A Comparative Study of Compliance Motivations in Developed and Developing World Fisheries

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This article addresses the question of how states can best promote citizens' compliance with laws that regulate livelihoods. Based on ethnographic data from fishing communities in three countries—Norway, Canada, and South Africa—the article compares compliance motivations that exist under different socioeconomic and political conditions. The comparisons give rise to a typology of three compliance motivations: deterrence, moral support for the law's content, and the legislator's authority. This article then identifies three governable preconditions—enforcement, empowerment of citizens, and civic identity—that respectively explain these motivations. The article argues that the compliance discourse in a given type of state must be framed such that it includes at least the governable preconditions for compliance that have not been met in that state. Consequently, a functional compliance strategy would vary between different state types. The article thus questions the transferability of the developed world's compliance discourses to the developing world.

The Question of Compliance in State-Regulated Livelihoods

The development of fisheries management worldwide exemplifies the increasing use of criminal law to regulate people's livelihoods. Ensuring citizens' compliance with laws that regulate their livelihoods is challenging because such laws tend to provoke resistance. Unlike traditional criminal law, laws regulating economic life address activities that are generally regarded as morally acceptable. However, these activities are still subject to demands for public intervention to protect private or collective interests. Consequently, laws that regulate livelihoods may conflict with the moral norms of

The research was funded by the Research Council of Norway, the South African National Research Foundation, the University of Oslo, the Norwegian-South African Fisheries Partnership (NORSA), and the South African-Netherlands Partnership for Development (SANPAD). We are grateful to four anonymous reviewers, the journal editors, Jesper Raakjær, and Frode Veggeland for valuable advice on previous versions. Please address correspondence to Stig S. Gezelius, Norwegian Agricultural Economics Research Institute, P.O. Box 8024 Dep, NO-0030 Oslo, Norway; e-mail: stig.gezelius@nilf.no.

Law & Society Review, Volume 45, Number 2 (2011)

https://doi.org/10.1111/j.1540-5893.2011.00436.x Published online by Cambridge University Press

those being regulated (Kagan 1984). The ensuing potential for resistance is further increased by the tendency of livelihood regulations to restrict people's ability to secure their livings and lifestyles. This study is therefore concerned with the following question: How can states best promote citizens' compliance with laws that regulate livelihoods? To answer this question, one must first understand citizens' subjective reasons for obeying livelihood regulations in situations where they have the incentive and the opportunity to act otherwise. In other words, one must understand citizens' potential compliance motivations. Subsequently, one must address the question of how the state can promote these compliance motivations. Addressing the latter question means identifying preconditions that can be controlled or significantly influenced by the state and that play a key role in generating compliance motivations among citizens. The authors refer to these preconditions as governable preconditions for compliance.

Based on comparative ethnographic research in fishing communities, this article outlines a typology of three compliance motivations: deterrence, moral support for the law's content, and the legislator's authority. We argue that these compliance motivations each can be influenced through their respective governable precondition for compliance: enforcement, empowerment of citizens, and civic identity. This article thus develops grounded hypotheses that transect classical theories of action. The motivation of deterrence is associated with economic schools of thought that regard compliance as the outcome of individuals' utilitarian, socially detached rationality (Becker 1968). In contrast, the motivations of moral support for the law's content and the legislator's authority are associated with schools holding that collectivities influence their members' actions through shared perceptions, values and behavioral norms (Parsons 1968).

The compliance motivation typology's inclusion of these theories of action relates this typology to major compliance explanations addressed in the literature; the three compliance motivations can indeed be seen as underlying major explanations. Our application of the concept of deterrence is straightforward, but the relationship between the two normative compliance motivations and previous literature may need some explaining. When law-regulated groups of citizens believe in the legislator's authority (Gezelius 2009) or morally support the law's content, for example, by considering it as promoting the common good (Scholz & Lubell 1998), these citizens may promote compliance through informal social control and by socializing group members so that these members internalize group norms that prescribe compliance (Grasmick & Green 1980; Gunningham & Kagan 2005; Kagan et al. 2003; Paternoster & Simpson 1996; Silberman 1976). When

https://doi.org/10.1111/j.1540-5893.2011.00436.x Published online by Cambridge University Press

the legislator has gained authority or ensured that the law's content is consistent with citizens' morality, the state may differentiate its enforcement style to create compliance not only through deterrence, but also through moral argumentation (Kagan & Scholz 1984; May 2004; Parker 2006) and through increasing citizens' awareness of issues that they latently perceive to be morally important (Gray & Scholz 1993).

In sum, one can argue that major explanations of compliance addressed in criminological research are based on one or more of the three compliance motivations identified in this study. This study's main aim is to identify governable preconditions for these compliance motivations and thereby to explore at a fundamental level how states may promote compliance in state-regulated livelihoods.

How states promote compliance is shaped by their understandings of compliance motivation and its causes. Such understandings constitute a "discourse" (Foucault 1971): explicit and implicit norms that define how a particular problem should be understood, which solutions are to be considered appropriate to solving it, and which perspectives can legitimately be employed in a debate regarding it. This article argues that the compliance discourse in a state must be framed such that it includes at least the governable preconditions for compliance that have not been met in that state. It argues that failing to include these preconditions may lead to ineffective or destructive law implementation in state-regulated livelihoods. This argument implies that a functional compliance discourse would vary between different types of states and, consequently, that states in the developing world should be cautious about adopting the developed world's deterrence-oriented compliance discourses. To some extent, this study thus bridges compliance motivation theory and institutional development theory. By exploring compliance motivations' institutional foundations, this study adds to development theory that regards institutions for state-society communication and, thereby, citizens' empowerment as crucial to increasing the governing capacities of developing states (Braithwaite 2006; Evans 1995).

The Compliance Discourse on a State-Regulated Livelihood: The Fisheries

Models that regard resource conservation as a matter of preventing individuals from maximizing their utility at the expense of others (Gordon 1954; Schaefer 1957) shaped the development of modern fisheries management systems since the 1960s. These models, which combined neoclassical economics with models of fish

https://doi.org/10.1111/j.1540-5893.2011.00436.x Published online by Cambridge University Press

population dynamics, have dominated the industrialized world's discourse regarding how to understand and counteract overfishing (Gezelius 2008a:31–8; Holm 1996:128). When the expansion of harvest regulations brought fisheries crime onto the management agendas of industrialized states in the 1980s, the compliance discourse was similarly framed; fisheries crime was viewed as crime for profit committed by utility-seeking, selfish individuals. Consequently, governmental compliance strategies focused on deterrence by imposing personal costs on fishers who broke fisheries laws. As Kagan and Scholz (1984) point out, such a perspective has generally dominated the discourse on business crime.

The development of fisheries management systems in the industrialized world largely emerged in response to rapid development in the overall economy that greatly reduced poverty. By the time noncompliance entered the agenda of fishery resource conservation, populations in the industrialized world had generally achieved high levels of material welfare and security thanks to decades of economic growth facilitated by state policies and the development of public welfare systems. People in most North Atlantic coastal states had for a number of years significantly influenced state policies through a variety of institutions for political participation. Hence, the basic questions of human welfare and the legitimacy of the state had largely been dealt with on a national scale, meaning that fisheries regulations were seldom experienced as conflicting with human rights. Consequently, deterrence-oriented law enforcement largely emerged as an acceptable and even appropriate compliance strategy.

After having been addressed as a domestic issue by coastal states in the North for a number of years, the compliance issue spread to the international agenda. Illegal, unreported, and unregulated (IUU) fishing—which is broadly defined as fishing that violates national or international legislation—has in recent years been pinpointed by the United Nations (UN) as a major cause of overfishing worldwide (Food and Agriculture Organisation [FAO] 2001; UN 2006). International concern with IUU fishing sprang from the knowledge that mobile offshore fishing vessels were operating in distant and international waters, rendering coastal state regulations ineffective. In line with the traditional bio-economic models of overfishing, IUU fishing has largely been attributed to profit-seeking and inadequate laws and enforcement strategies (Commission of the European Communities [CEC] 2007; Environmental Justice Foundation [EJF] 2005). Consequently, international governmental organizations have focused on enhancing surveillance and enforcement in order to eliminate IUU fishing (CEC 2007; EJF 2005; FAO 2003). Domestic noncompliance in developing countries' fisheries—including small-scale fisheries—

https://doi.org/10.1111/j.1540-5893.2011.00436.x Published online by Cambridge University Press

has generally been classified as part of the IUU problem (Marine Resources Assessment Group [MRAG] 2005; MRAG & CapFish 2008). In southern Africa, for example, attempts to highlight differences between the IUU activities of industrial and artisanal fisheries in the Southern African Development Community (SADC) have not gained enough weight to result in significantly diversified compliance strategies (MRAG & CapFish 2008). Despite some attempts to recognize poverty and marginalization as possible IUU drivers, noncompliance is still mainly understood as simply "seeking personal advantage to the disadvantage of others" (Stop Illegal Fishing [SIF] 2008:3). Consequently, the key role of surveillance and enforcement in ensuring compliance remains unquestioned (MRAG & CapFish 2008; SIF 2008).

The developed world's fisheries compliance discourse has largely been adopted worldwide, partly because developed countries are assisting developing countries to combat IUU fishing challenges (CEC 2007; SIF 2008). The worldwide fisheries compliance discourse among fisheries managers and decision makers thus predominantly frames noncompliance as an enforcement problem. The enforcement perspective implies that fishers' acts of noncompliance be targeted as the fundamental evil to be counteracted, and that such counteraction can be done effectively by influencing the fishers' assessments of personal costs, risks, and benefits. Managers and decision makers have generally not considered deeper causes and values, such as fishers' basic needs, perceived rights, and identification with the state, as appropriate aspects of the fisheries compliance discourse. The compliance-related tasks of fisheries managers are thus largely delimited to deterrence strategies. Fisheries law implementation can thus be seen as a case of developed states "exporting" governance solutions to the developing world, a policy that could lead to unfortunate consequences unless pursued with proper awareness of the conditions that make these solutions work (Unsworth 2007; Welsh & Woods 2007).

While the fisheries compliance discourse among fisheries managers has been quite resistant to change, over the years this discourse within academia has changed. The fisheries compliance literature emerged simultaneously with managers' compliance discourse in the mid-1980s and largely applied a similar perspective: the economic theory of crime (Anderson & Lee 1986; Furlong 1991; Sutinen & Andersen 1985). However, the framing of the academic fisheries compliance discourse was challenged beginning in the late 1990s, when questions of legitimacy and fishers' morality were addressed (Gezelius 2002, 2004; Hatcher & Gordon 2005; Hatcher et al. 2000; Hauck & Kroese 2006; Hønneland 2000; Kuperan & Sutinen 1998; Raakjćr-Nielsen & Mathiesen 2003). Some of this "second generation" literature drew on qualitative data to

https://doi.org/10.1111/j.1540-5893.2011.00436.x Published online by Cambridge University Press

explore fishers' compliance motivations, highlighting, for example, positive effects gained by nondeterrence-based enforcement (Hønneland 1998; see also May 2004; Parker 2006). Social, economic, and normative compliance motivators in developed (Gezelius 2003, 2006, 2007) and developing (Hauck 1999, 2008) countries were studied in further depth through ethnographic studies. Based on a comparative research design, this article analyzes the findings of these ethnographic studies.

Research Method

This is a qualitative comparative study in the grounded theory tradition (Glaser & Strauss 1967); by comparing data from cases with distinct similarities and differences, the authors produce "middle-range theory" (Merton 1968) regarding governable preconditions for compliance. Although this research design embeds theoretical propositions in empirical data, only future studies can properly evaluate the general predictive capacity of these propositions.

We selected cases based on the following criteria. All cases had to be *similar* in the sense that: they were communities whose economies depended heavily on the fisheries; local fishers were significantly restricted by state regulations and had opportunities and incentives to violate these regulations; the communities were small and intimate enough to enable effective social control among residents. These criteria enabled us to study the incentives and moralities of compliance, and thereby to conceptualize types of compliance motivation. Our sample of cases also had to contain *variety* regarding historic patterns of interaction between the fishing industries and the authorities that governed them. These criteria enabled us to compare compliance motivations in settings with different histories of state-industry interaction. Our study thus includes data from an old democracy in a unitary nation-state with strong traditions for state-industry interaction (Norway), from an old democracy in a nationally heterogeneous federation with weaker traditions for state-industry interaction (Newfoundland/Canada), and from a young democracy in a developing country with a heterogeneous population and very weak institutions for state-industry interaction (South Africa). This comparative research design enabled us to outline empirically grounded hypotheses regarding causal connections between citizens' compliance motivations and institutions for state-society interaction. We established the term *governable preconditions for compliance* to signify the institutions for state-society interaction that we hypothesized promote the compliance motivations we identified. Subsequently, following Weber's (1922) method for "ideal type" construction, we

https://doi.org/10.1111/j.1540-5893.2011.00436.x Published online by Cambridge University Press

used our comparative analyses of these governable preconditions for compliance to construct a theoretical typology of states. Based on this typology of states, we developed our argument regarding how functional compliance discourses will vary in developed and developing world settings. The hypotheses outlined in this study thus constitute recommendations regarding how states that resemble a specific ideal type may promote a culture of compliance.

We used ethnographic fieldwork to generate data on fishers' compliance motivations. A distinguishing feature of ethnographic compliance studies is their ability to generate data on socially embedded compliance motivations. This feature is especially significant regarding normative motivation, because moral behavioral norms work not only through individual perceptions, but also through social control within larger social groups. Consequently, moral norms form regular patterns of behavior among people with varying degrees of internalized commitment. The ethnographic method thus enabled us to study compliance motivation not only as an individual characteristic but also as a cultural phenomenon. Ethnographic studies may outline generalizing interpretations based on the typical tendency of moral behavioral norms to exist within larger social contexts. The generalizing potential of our in-depth studies thus consists in the ability of such studies to produce insights that are relevant beyond the local settings in which these insights were produced (Flyvbjerg 2006).

The methodology in the Norwegian and Canadian studies has been described elsewhere (Gezelius 2003, 2006), but briefly summarized, it consisted of data that were generated in 1997 and 1998 through comparative ethnographic fieldwork in one Norwegian and one Newfoundland fishing community, followed by fieldwork onboard five offshore fishing vessels from a Norwegian community in 2003 and 2004. Participatory observation and semi-structured interviews were used to generate data on compliance motivations, community norms, social control, and perceptions regarding the state. These case studies compared and interpreted fishers' compliance motivations in light of data on institutions for state-society interaction. The studies included data from some 115 informants among fishers, managers, and other key actors.

Research on compliance motivation in South Africa has been undertaken since 1995, when an in-depth analysis of fisher behavior focused on one traditional fishing community (Hauck 1999; Hauck & Sweijd 1999). This research has been complemented by additional studies (Hauck & Hector 2003; Hauck & Kroese 2006) and has extended to other areas along South Africa's coast, focusing on inshore, small-scale fisheries that are not capital-intensive. The authors of this article began collaborating in 2005, aiming to ensure that South African data could be compared with data from

https://doi.org/10.1111/j.1540-5893.2011.00436.x Published online by Cambridge University Press

Newfoundland and Norway. The subsequent South African study of compliance behavior was undertaken from 2005 to 2008. It involved case study fieldwork in three coastal provinces, focusing on compliance motivations and state-society relations in a number of inshore fisheries, including abalone, rock lobster, and bait (Hauck 2009a, 2009b; Hauck et al. 2005). Observational methods and interviews were used to engage with some 240 informants including fishers, government authorities, local communities, and other key stakeholders.

Key Concepts and Theoretical Premises

Conceptualizing Motivations and Governable Preconditions for Compliance

This study takes a grounded theory approach, meaning that it generates concepts and hypotheses through comparative analysis of cases. The case analyses resulted in the classification of governable preconditions[1] for compliance, meaning preconditions that can be controlled or significantly influenced by the state and that play a key role in generating compliance motivation among citizens. Three governable preconditions for compliance were identified: enforcement, empowerment, and civic identity. In the following, we define these three preconditions and explain how each of them is crucial to the existence of one of the three types of compliance motivation that were found in the case studies: deterrence, moral support for the law's content, and the legislator's authority. Subsequently, we present the case studies that gave rise to these typologies and hypotheses. Figure 1 illustrates the causal relationships between the three governable preconditions for compliance and the three observed compliance motivations.

Enforcement

Enforcement refers to the state's regular use of surveillance, control, and penalty in order to prevent and respond to noncompliance. Enforcement gives power to the state through its ability to deter citizens from acting against the law. Enforcement is thus considered to be a governable precondition for the compliance motivation of deterrence. Deterrence is associated with an economic model of compliance that assumes that rational individuals comply with laws if their expected costs of noncompliance

[1] In modern social science, robust hypotheses rarely go beyond the ambition of providing partial explanations and of outlining causal probabilities. Using positivist adjectives, such as "necessary" or "sufficient," when speaking of preconditions, is thus usually overly ambitious. Their status as "preconditions" thus means that they will play a decisive role in most cases.

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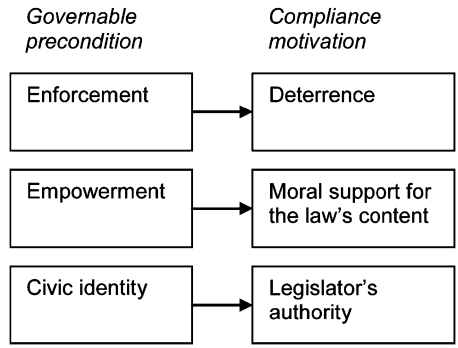

Figure 1. Compliance Preconditions and Compliance Motivations.

outweigh their expected benefits (Becker 1968). The deterrence-oriented compliance model dominated the early fisheries compliance literature (Anderson & Lee 1986; Sutinen & Andersen 1985) and is still the dominant element of national and international compliance strategies.

Empowerment

While enforcement gives power to the state, empowerment gives power to citizens. Empowerment refers to the existence of institutions that guarantee that the power of those affected by management decisions is great enough to ensure that those decisions promote—rather than violate—their basic needs and perceived fundamental rights. Empowerment is considered a governable precondition for the compliance motivation of moral support for the law's content. Moral support for the law's content means that fishers perceive that rules and regulations correspond to their moral beliefs, and that they therefore consider the content of the law as a significant reason for compliance (Gezelius 2007). The importance of moral support for the law's content has received increasing attention in literature concerned with normative compliance motivations. It has been argued that laws perceived as violating citizens' moral rights tend to provoke noncompliance (Hauck 2009a, 2009b; Jentoft 2000), while laws perceived as promoting citizens' shared values tend to trigger informal compliance mechanisms (Acheson & Gardner 2004; Gezelius 2004; Jentoft & Kristoffersen 1989; Scholz & Lubell 1998). It may be necessary to grant specific influence to those groups that are particularly affected by regulations to ensure that regulations are shaped such that regulated actors perceive them as morally justified (Jentoft 1989; Kagan & Scholz 1984). Empowerment is arguably most critical to compliance motivation in regulatory fields where the state cannot make well-founded assumptions regarding the moral perceptions of citizens and therefore needs empirically based

https://doi.org/10.1111/j.1540-5893.2011.00436.x Published online by Cambridge University Press

knowledge regarding these perceptions.[2] The management of common-pool natural resources, such as fish stocks, will often constitute such a regulatory field. Kagan and Scholz (1984) have argued that compliance with business regulation generally may be facilitated by a regulatory style that emphasizes negotiation between the regulator and the regulated.

Civic Identity

While enforcement gives power to the state and empowerment gives power to citizens, civic identity creates a sense of community between the two. Civic identity means not only that people are empowered through citizens' rights to participate and thus are acknowledged as proper state members (citizenship), but also that membership in the state has become part of people's conception of self—their social identity. We argue that civic identity is a precondition for the compliance motivation of the legislator's authority. The term *legislator's authority* refers to the perception among citizens that they have a moral obligation to obey the law even if they might personally disagree with the law's content (Gezelius 2009).

The hypothesized causal connection between civic identity and the legislator's authority draws on the social identity[3] theory originally developed by Tajfel (1982) and needs a thorough explanation. An important feature of civic identity formation is that the state with its legal institutions becomes part of what Sumner (1940) calls people's perceived "ingroup" (or "we"-group). Social identity theorists have shown that ingroup members tend to value ingroup characteristics positively (Hogg & Abrams 1988; Tajfel & Turner 1986), that social identification promotes cooperative and altruistic behavior toward ingroup members (Bergami & Bagozzi 2000), and—most important—that social norms are key means of ingroup definition, and that group belongingness generates conformity to ingroup norms (Hogg & Abrams 1988:171–5). The social identity theory has in recent years been applied by scholars concerned with the question of national identity's ability to generate civic behavior, including political participation and compliance, through behavioral norms attached to people's image of self as "good citizens" (see, e.g., Gezelius 2003; Huddy & Khatib 2007). It has been argued that the ability of national identity to create such civic behavior depends on national identity being constructed to a significant extent on the notion of citizenship (Mansbach & Rhodes

[2] International crime rate comparisons that focus only on types of crimes that are universally regarded as moral offenses (see, e.g., Lin 2007) potentially obscure empowerment's significance to compliance.

[3] Social identity is defined as that part of people's image of self that derives from their perceived membership of social groups (Tajfel 1982:24).

https://doi.org/10.1111/j.1540-5893.2011.00436.x Published online by Cambridge University Press

2007). Civic identity is seen as facilitated through politically embedded nation-building and through the construction of institutions for the political participation of citizens. Several studies suggest that state-society identification promotes compliance, and that this identification is promoted by the state's inclusive approach to citizens (Gezelius 2003; Lee 2008; Murphy et al. 2009). The social identity perspective implies that the legal rights and obligations associated with citizenship may attain positive moral weight once citizenship forms part of people's social identity; civic identity promotes law-abidingness when law-abidingness forms part of people's image of "the good citizen."

The social identity perspective also implies that civic identity reduces emotional obstacles to moral subordination to the state, because civic identity means that state governance is experienced as ingroup governance (Gezelius 2003:34–5; see also Murphy et al. 2009). A related implication is that civic identity entails that the state and its legal institutions tend to be valued positively among citizens, for example in the form of high levels of trust in political decision makers. In sum, the social identity theory implies that one can reasonably hypothesize civic identity to be a significant precondition for citizens' subjectively experienced moral obligation to obey the law: the legislator's authority.

A Theoretical Typology of States

The case studies, which we discuss in detail below, show that compliance motivation varies in different state settings, depending on the governable preconditions being met (i.e., enforcement, empowerment, and civic identity). Thus, we argue that it is critical that the compliance discourse in each setting addresses at least the governable preconditions that still remain to be met. To clearly illustrate the different levels of the compliance challenge in different state settings, we outline a theoretical typology of states based on the extent to which they meet these preconditions. These typical states must be regarded as "ideal types" in a Weberian sense (1922), meaning that they serve as conceptual tools for analyzing real-life cases whose similarity with the ideal types is usually a matter of degree and often varies depending on empirical context.

In constructing the typology of states, we use the presence of the governable preconditions for compliance as the criterion defining the level of a state's "embeddedness." The concept of the "embeddedness of the state" is borrowed from institutionalist development theory, where it signifies the institutionalized social ties between the state and civil society, including the existence of institutions for state-society negotiations regarding goals and policies (Evans 1995). Our concern with subjective compliance moti-

https://doi.org/10.1111/j.1540-5893.2011.00436.x Published online by Cambridge University Press

vations requires us to be sensitive to the cognitive aspects of these state-society relations. In the context of this article, "state embeddedness" thus refers to the citizens' role in governance, as well as their perceptions of this role.

The characteristics of the ideal types of states are outlined in Figure 2, which thereby illustrates the relationships between the study's basic concepts. As illustrated in Figure 2, the unembedded state is characterized by having law enforcement as its only means of ensuring citizens' law-abidingness. The semi-embedded state is characterized not only by law enforcement, but also by empowerment of its citizens, which provides a basis for compliance through citizens' moral support for the law's content. The embedded state has the same characteristics as the semi-embedded state, but in addition, it is characterized by a strong sense of civic identity among its citizens. The case studies presented below illustrate that the number of compliance motivations that are present differ depending on the state's level of embeddedness.

The Case Studies

The Norwegian Case

Compliance Motivations

The first study in our cross-case comparison is an ethnographic study of fishers' compliance motivations that was carried out in an inshore fishing community of some 390 inhabitants and 60 registered fishers on Norway's west coast in 1997, when this community was severely affected by a series of periodic closures of the saithe fisheries (Gezelius 2003). These fishers thus had significant economic incentives to conceal illegal quantities of saithe through falsification of sales notes, and they also knew of a fish buyer in the area willing to falsify sales note information. The fishers perceived the risk of detection by law enforcement as being low in this particular area, and deterrence was thus not a strong motivation among fishers for observing regulations in their local waters.

The fishing fleet consisted of 14 inshore vessels fishing with automatic jigging machines and gillnets, and three midshore vessels also using purse seines. All vessels were subject to state regulation. However, the fishers unanimously disagreed with regulations for the inshore vessels because they believed that these vessels represented no threat to the fish stocks. Fishers on the purse seiners, who shared this view, supported regulation of their own vessels. The predominance of inshore vessels in this community resulted in widespread absence of moral support for the law's content, although regulation of the larger vessels was supported.

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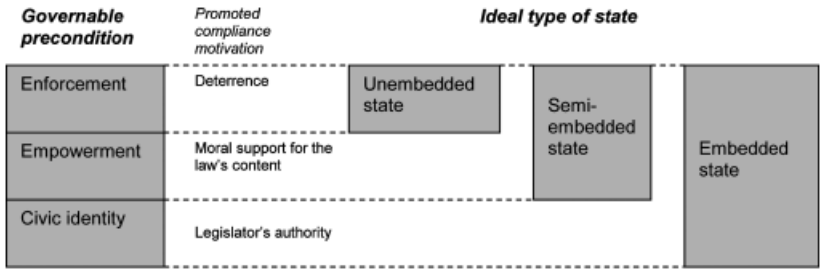

Figure 2. Conditions for Compliance in Different State Types.

The fishers in this community most often complied with the state's regulations concerning commercial fisheries, including the saithe closure, despite strong economic incentives for noncompliance and low detection risk. Despite a significant degree of opposition against the content of regulations, the fishers' reasons for compliance focused largely on their fear of being morally condemned in the community and on their own moral convictions. The most important social norm governing compliance behavior and community sanctions was a perceived moral obligation to obey the law, regardless of the law's content. Inshore fishers did thus not perceive their lack of moral support for the law's content as an adequate reason for breaking the law. "Being a law breaker" was associated with moral discomfort and loss of status in the community. Based on these data, we developed our concept of the legislator's authority—a content-independent moral obligation to obey the law—to signify the main compliance motivation in this case study. Although the legislator's authority was a significant compliance motivation, this authority sometimes conflicted with fishers' perceived right to make a reasonable livelihood from fishing. Some of the fishers had had a poor fishing season and were thus hit especially hard by the saithe closure. When some of these fishers violated regulations to reduce their severe economic difficulties, the surrounding community experienced a moral dilemma that left it unable to severely sanction these transgressors. The legislator's authority was still in force, but fishers' resistance against the law's content had in these cases become strong enough to create moral ambivalence and disagreement in the community regarding noncompliance. In these cases of economic hardship, the community could thus neither clearly accept nor effectively sanction violations.

This community study was followed by a study of compliance motivation among offshore fishers, based on fieldwork onboard five vessels from one of Norway's main pelagic fisheries communities. This municipality of about 4,500 inhabitants had a fleet of

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24 modern, mostly family-owned, offshore purse seiners. Almost half its workforce was employed in fisheries-related activities; therefore, the levels of social transparency and social control were comparable to those of the inshore fishing community.

This fleet was subject to much stricter state control and enforcement than were its colleagues in the inshore fishing community, and the fishers emphasized that the risks and costs of being detected by enforcement personnel was a significant compliance motivation for them. The fishers on large offshore vessels also strongly supported regulation of their fleet generally and core aspects of Norwegian fisheries policy specifically, such as the ban on discarding. Consequently, we found that our concept of moral support for the law's content, which had been developed during the Newfoundland case study, properly described this compliance motivation. In addition, law-abidingness was a criterion for being considered a "bona fide" fisher in this milieu, and thus of receiving the trust and recognition required for beneficial cooperation with other fishers. These offshore purse seiners competed intensely for the honor associated with being the most-catching vessel, and the moral force of law entailed that fisheries regulations were perceived as rules of fair play in the competition. Gaining a competitive advantage through illegal means was clearly not accepted. The moral force of law among these fishers arguably reflects the importance of law-abidingness to the Norwegian image of the "good citizen." Data showing that these fishers believed that Norwegian fishers were much more law-abiding than foreign fishers supports the interpretation that law abidingness is part of the fishers' social identity (Gezelius 2006, 2007). The study of the Norwegian offshore fishers thus found that all three compliance motivations—deterrence, moral support for the law's content, and the legislator's authority—played a role in ensuring compliance.

Governable Preconditions for Compliance

Norway's approach to ensuring fishers' compliance is traditional in the sense that it focuses on surveillance through sea- and land-based controls, and penalty through fines, confiscation, and withdrawal of licenses. The governmental discourse regarding compliance has correspondingly been oriented toward deterrence mechanisms (Gezelius 2008b). However, the governable preconditions facilitating moral support for the law's content and the legislator's authority are interesting in this context. We thus specifically address Norwegian characteristics regarding fishers' empowerment and civic identity construction.

Norwegian fishers are mainly organized in a single fishers' union—the Norwegian Fishermen's Association (NFA)—that organizes owners and crews in both the inshore and offshore sectors.

https://doi.org/10.1111/j.1540-5893.2011.00436.x Published online by Cambridge University Press

The NFA is regarded by the government as the main voice of the fish harvesting industry and functions as the government's most important consultant in setting fisheries regulations. The NFA was established in 1926 when a number of regional fishers' unions merged into one national union, partly as a result of the government's wish for a uniform industry voice. Government arrangements for industry consultation were established simultaneously with the state's fisheries administration in 1900, and they became effective with the creation of the NFA. The NFA was largely oriented toward the political authorities from the beginning. Its influence was enhanced through its strong links to the labor movement that dominated Norwegian politics from the 1930s to the late 1970s. The NFA has maintained a strong position since. The strong political position of the NFA meant that Norwegian fishers historically had political influence and identity close to the political center of gravity. One of the most important results of the NFA's influence was the Raw Fish Act of 1938, granting fishers' sales organizations a law-protected monopoly on the first-hand trade of fish. This monopoly significantly strengthened the market position of fishers. Fishers' economic welfare was secured further through the Basic Agreement of 1964 whereby the NFA became the government's exclusive partner in negotiations regarding government financial support for the fishing industry. As a result of these institutions for empowerment, fishers were able to take part in the Norwegian welfare growth after World War II (Apostle et al. 1998; Gezelius 2003, 2008b; Hallenstvedt & Dynna 1976). The NFA included the offshore fisheries sector in the 1960s (Hoel et al. 1991:92) and thus gained increased influence as the organization representing the entire harvesting sector. The general increase in fishers' standard of living and the development of public welfare schemes have protected fishers against poverty potentially resulting from regulatory measures. Consequently, the economic difficulties observed among some fishers in the case studies did not emerge as matters of basic material security and did not destroy the legislator's authority in the community—although economic difficulties generated sufficient empathy to dampen social sanctions against transgressors (Gezelius 2003:58–76).

As resource conservation became an increasingly important state task from the 1970s onward, the NFA was granted a major role as formal and informal advisor to the state in matters of fisheries management. For example, the NFA is strongly involved in setting Total Allowable Catches (TACs) and has near de facto control of quota distribution. The NFA's influence has been facilitated by organizational procedures that generate uniform industry advice through voting procedures.

The fishers' sales organizations have also been delegated important implementation tasks relating to quota monitoring, catch statistics, and enforcement. The extent of state-industry interaction in fisheries management has made the industry into a responsible partner with the state in matters of fisheries management, thus blurring perceived distinctions between state and industry organizations. It can be argued that this blurring has facilitated fishers' identification with the state. The blurring of state-industry distinctions has arguably been reinforced by extensive exchange of personnel across state-industry boundaries. For example, several fisheries ministers were previously prominent NFA representatives (Gezelius 2003, 2008b).

Norwegian fisheries are characterized by a strong tradition of industry empowerment. The earlier study of the inshore fishers addressed perceptions of decision making procedures and found that these procedures were largely considered satisfactory. Decision making procedures were largely taken for granted and constituted no matter of great concern among fishers, although skepticism of fisheries science was widespread (Gezelius 2003:54–8, 80–2).

The legislator's authority among Norwegian fishers has been explained both in light of structures for empowerment contributing to fishers' identification with the state and in light of general research on Norwegian national identity and political culture (Gezelius 2003). Survey data have shown that Norwegian national identity is strong and that it may be described as a case of what Billig (1995) calls "banal nationalism"—an implicit and taken-for-granted national identity typically found in well-established nation-states in the Western world (Knutsen 1997). Important in this context, Norwegian national identity has been constructed primarily around state institutions. Norwegian nation-building during the 19th century established the Constitution of 1814, the parliament, and the idea of a self-governed people as cornerstones of Norwegian national identity. The Constitution Day became Norway's biggest public celebration, with a participation rate exceeding 90 percent of the population (Aagedal 1997; Gezelius 2003; Sørensen 1998). The success of nation-building was arguably also facilitated by continuous economic growth and the construction of the welfare state after World War II, reducing economic and political cleavages. The Norwegian tradition of including interest groups, such as fishers, in the political decision making process played a significant role in ensuring citizens' welfare (Gezelius 2003). Norwegian nation-building thus largely emerged as a project of civic identity construction. Norwegian nation-building can thus be described, in Mansbach and Rhodes's (2007) terms, as a case of citizenship becoming a core marker of national identity.

https://doi.org/10.1111/j.1540-5893.2011.00436.x Published online by Cambridge University Press

Social identity theory implies that civic identity is associated with a favorable impression of the state's major political institutions, and surveys conducted up to the point of the Norwegian compliance study show that Norwegian voters have consistently been satisfied with the Norwegian political system (Aardal 1999:166–90; Aardal & Valen 1989:276–81; Gezelius 2003). Similarly, studies document a high, relatively stable level of citizens' trust in politicians and political decision makers, in the sense that trust tends to dominate over distrust on the measured indicators—such as faith in decision makers' competence, reliability, and concern about ordinary people's opinions (Aardal 1999:170–1; Aardal & Valen 1989:279–81; Gezelius 2003; Miller & Listhaug 1998). Undoubtedly, Norwegian voters generally perceive the Norwegian political system as a case of ingroup governance. Arguably, the traditions for empowerment and governance-oriented nation-building have contributed significantly to constructing civic identity, paving the way for the legislator's authority observed in the Norwegian case studies.

State Type Classification

Based on data about the Norwegian fisheries governance system with its strong traditions for industry empowerment and strong civic identity, we developed our theoretical ideal type of the embedded state. Norwegian fisheries governance does not necessarily equal this ideal type in every respect and every setting, but this ideal type describes its essential features. We hypothesize that these features, to a significant extent, have promoted the legislator's authority and moral support for the law's content among fishers. It is symptomatic of the embeddedness of Norwegian fisheries governance that the state's enforcement may be characterized as low-conflict. Fisheries enforcement personnel are unarmed, and incidents of physical violence are extremely rare. The Coast Guard, which is responsible for at-sea controls, instructs its personnel to behave politely, and studies have shown that the Coast Guard is quite well respected among fishers (Gezelius 2003, 2008b; Hønneland 1998). This low-conflict enforcement is arguably made possible by strong institutional ties between the state and civil society. These ties entail that civil society largely takes care of compliance through informal social control, while the state's enforcement may concentrate on a relatively small residual of people and situations not affected by civil society's control mechanisms. The compliance discourse within fisheries management may thus focus on enforcement directed at this residual because the more fundamental preconditions for compliance—civic identity and empowerment—have already been established.

https://doi.org/10.1111/j.1540-5893.2011.00436.x Published online by Cambridge University Press

The Newfoundland Case

Compliance Motivations

The second case in our comparison is an inshore fishing village of approximately 350 people including 55 registered fishers, located on the eastern coast of Newfoundland, Canada. Data on fishers' compliance motivations were generated through ethnographic methods for the purpose of comparison with the Norwegian inshore village described above (Gezelius 2003). Data were generated during spring 1998, when a long-lasting moratorium on cod fishing and a high density of cod in local waters together provided a significant incentive for illegal fishing.

The fishing fleet of this village consists of decked inshore vessels and open boats, traditionally combining fisheries for groundfish and pelagic species. However, the cod fisheries were closed in 1992 due to fish stock collapse, and moratoria were introduced for most other groundfish species in the area two years later. The Newfoundland fishing village had survived based on pelagic fisheries, crab fisheries, and a special income support program—The Atlantic Groundfish Strategy (TAGS)—that compensated Newfoundland fishers for their loss of income following the groundfish moratoria. TAGS and the remaining fisheries ensured that the fishers' lifestyle and material standard of living remained relatively intact after the moratorium, although many were worried about the future.

The fishers collectively agreed that the fish stocks had been severely overfished and that the government acted correctly in closing the commercial cod fisheries in 1992. In 1998, most fishers wanted the government to open a small commercial test fishery for cod, but still agreed that strict regulation of commercial cod fisheries was necessary. Cod has had great historical importance in Newfoundland, which has given it a special place in the minds of Newfoundlanders as an important common good. Consequently, protecting the cod stock was perceived as a collective responsibility. The fishers unanimously agreed that they had a moral obligation to abstain from illegal fishing on a commercial scale. This moral norm was strictly monitored and enforced among community residents; this village complied absolutely with the ban on commercial cod fishing. However, rumors circulated that some people in the surrounding area poached commercially. These poachers were subject to intense gossip, indignation, and social exclusion, and they emerged as a criminal subgroup regarded with fear. Observations of gossip were followed up by interviews regarding the gossip's moral basis. The moral norm against freeloading on a collective sacrifice to protect the stock was the core reason for blaming commercial poachers. Despite the researcher's attempts to find signs of

https://doi.org/10.1111/j.1540-5893.2011.00436.x Published online by Cambridge University Press

the legislator's authority, no data suggested that breaking the law was seen as immoral per se; this picture was also confirmed by data regarding other commercial fishing activities (Gezelius 2003:124–34; Matthews 1993:181–8). The perceived moral obligation to obey the law was contingent on the perception that harsh restrictions on commercial cod fishing were necessary to protect the common good (see Scholz & Lubell 1998). We thus developed our concept of moral support for the law's content to describe the dominant compliance motivation regarding commercial cod fishing.

The fishers believed that subsistence fishing, unlike commercial fishing, represented no threat to the stock and thus strongly opposed the state's ban on subsistence cod fishing. Unlike commercial poaching, subsistence poaching was thus commonly accepted in the community and could take place fairly openly. However, strict enforcement of the cod moratorium by Canadian authorities reduced many people's willingness to poach even for subsistence. While moral support for the law's content was the dominant compliance motivation concerning commercial fishing, deterrence was the dominant compliance motivation concerning subsistence fishing. It is symptomatic of the moral distinction between commercial and subsistence poaching that people supported strict enforcement of the commercial fishing ban, while they reacted indignantly when subsistence poachers were arrested and punished.

It is notable that both Newfoundland and Norwegian inshore fishers, despite their different views regarding the legislator's authority, were more receptive to state regulation of commercial fishing than to regulation of subsistence fishing. The Norwegian inshore fishers, who were strongly motivated by the legislator's authority in their commercial fishing, were comparatively tolerant of illegal subsistence fishing. We have argued elsewhere that citizens tend to regard subsistence-oriented, small-scale activities as relatively harmless and morally innocent compared to commercial, large-scale activities. Citizens are thus more inclined to accept the legislator's authority and to support the law's content in the "morally perilous" sphere of commerce than in the "morally innocent" sphere of subsistence (Gezelius 2004).

Governable Preconditions for Compliance

The Newfoundland case does not differ significantly from its Norwegian counterpart regarding deterrence and enforcement. Newfoundland has a traditional enforcement-based system for ensuring fishers' compliance, based on surveillance and penalty following prosecution through the court system. The main difference regarding compliance motivation concerns an absence of the legislator's authority in the Newfoundland case, and the consequent dependence of normatively based compliance on moral support for

https://doi.org/10.1111/j.1540-5893.2011.00436.x Published online by Cambridge University Press

the law's content. In terms of governable preconditions for compliance, we therefore focus on characteristics regarding empowerment and civic identity construction.

Unlike their Norwegian counterparts, fishers in the Newfoundland village were strongly concerned, frustrated, and disillusioned with decision making procedures. Newfoundland's fisheries are managed by the federal government, and fishers generally felt that the government was unreceptive to their views. Many felt that public hearings regarding fisheries management were window dressing, making no genuine difference. There was widespread distrust in federal decision makers' concern about Newfoundland, distrust in the competence of provincial authorities to take care of Newfoundland's interests, and disillusionment regarding the fishers' union's ability to make a difference. There was also massive distrust in the competence of government fisheries scientists (Gezelius 2003:111–22).

These observations of political distrust among rural fishers are similar to findings in previous studies on political culture in Newfoundland. Consequently, these attitudes may not be ascribed to the fisheries crisis alone, but rather to a historical cultural pattern. Earlier studies found that Newfoundlanders had little faith in their ability to influence the government's decisions, and they distrusted federal and provincial politicians (Graesser, cited by Gezelius 2003; Matthews 1993; Ornstein et al. 1980; Simeon & Elkins 1974). This pattern of political distrust may be understood in the light of Newfoundland's history as a Canadian province. Newfoundland became part of Canada in 1949 after two referendums, ending with a small majority in favor of confederation. While central Canada had continued economic growth after World War II, Newfoundland lagged with relatively low incomes, high unemployment, and dependence on federal financial support (Fairley 1990:11–12; Hiller 1987:262; Veltmeyer 1990:85–91). Newfoundland has thus been characterized as a case of regional underdevelopment within an advanced industrial state (Sinclair 1987:11). Government attempts to modernize the Newfoundland economy after World War II largely failed, which resulted in disillusionment and distrust of the federal government (O'Brien 1979:289–302).

Newfoundland's troubled and relatively short relationship with federal Canada is also significant in terms of national identity. Its geographical isolation provided for a distinct culture and a sense of Newfoundland nationality, and people's attitudes towards federal Canada were ambivalent (Campbell & Rawlyk 1979; Hiller 1987; Overton 1979; Tomblin 1995). Surveys showed that Newfoundlanders had strong emotional ties to their province and that there was latent tension between people's identities as both Newfoundlanders and Canadians (Elkins 1980; Gibbins 1994; Graesser, cited

https://doi.org/10.1111/j.1540-5893.2011.00436.x Published online by Cambridge University Press

by Hiller 1987; O'Brien 1979). Similar observations of identity were made among the fishers in the Newfoundland village, who tended to express a strong Newfoundland identity that existed alongside, but was experienced as potentially competitive with, their identity as Canadians (Gezelius 2003:119–22). The data on political distrust and sense of nationality thus suggest a significantly weaker civic identity in the Newfoundland case than in the Norwegian case.

The political empowerment of fishers is arguably important to understanding their attitudes toward the state. Similar to their Norwegian counterparts, Newfoundland fishers are well organized vis-à-vis both the state and the processing industry. However, the Newfoundland fishers' union has a shorter history and one of far less state support than its Norwegian counterpart. Newfoundland fishers had a strong union in the early twentieth century, but it soon declined and lost most of its political importance, resulting in cautiousness regarding later attempts at organizing fishers. Not until the early 1970s did Newfoundland fishers establish a lasting, influential union. The union, which eventually was named the Fish, Food and Allied Workers (FFAW/CAW), organized both inshore and offshore fishers, as well as plant workers. While the NFA in Norway was largely oriented toward the state, partly because the Norwegian Raw Fish Act (1938) had ensured the fishers' market position, the FFAW/CAW was mainly oriented toward the conflict between fish sellers and buyers, spending much of its efforts in the early 1970s at gaining collective bargaining rights regarding fish prices and plant worker wages. The Newfoundland unionization process and the fight for collective bargaining rights were driven solely by the union and had little government support. Collective bargaining rights, in addition to the fishers' unemployment insurance that had been established in 1957, improved the economic security of fishers. However, the political influence and market position of Newfoundland's fishers came relatively late and have been modest compared to those of their Norwegian colleagues, who had a long history of a state-supported union, de facto legal control of fish prices since the late 1930s, and the right to negotiate annual state subsidies since the mid-1960s[4] (Apostle et al. 1998:50–8; Gezelius 2003; Macdonald 1985).

Similar to its Norwegian counterpart, the FFAW/CAW also attained a role as advisor for the state in matters of fisheries management as this became a growing issue from the late 1970s onward. However, while the NFA has an organizational structure

[4] Norwegian price subsidies were removed in the mid-1990s, and from 2005, the Basic Agreement between the NFA and the state was no longer in force (Government of Norway 2007).

https://doi.org/10.1111/j.1540-5893.2011.00436.x Published online by Cambridge University Press

aimed at making uniform decisions through extensive use of voting procedures, the FFAW/CAW has a structure mainly aimed at voicing often diverging opinions and thereby at avoiding voting on controversial issues. Similarly, voting has been avoided in the Newfoundland advisory committees for industry consultation, unlike in Norway.[5] Industry advice thus emerges as relatively heterogeneous and fragmented in Newfoundland, giving Canadian fisheries authorities a higher degree of autonomy in relation to industry advice than their Norwegian counterparts have. Although Newfoundland fishers have been significantly empowered over the years, they have not had conditions for constructing a shared state-industry identity equal to that of their Norwegian colleagues.

State Type Classification

Based on data about the Newfoundland fisheries governance system with its institutions for fishers' empowerment and yet ambivalent civic identity, we developed the theoretical ideal type of the semi-embedded state. We hypothesize that these characteristics to a significant extent promote moral support for the law's content but that they may also account for the absence of the legislator's authority among the fishers.

In the case of cod, people's moral support for the law's content was rooted in their concern about the fish stocks, but it should also be viewed in the light of the state's welfare schemes—especially the TAGS program—that ensured a reasonable material standard of living for fishers. The Newfoundland data were generated when the TAGs program was about to expire, and interview data indicated that economic security was a precondition for continued compliance. These interview statements were not put to a test, as the state announced a follow-up program of economic assistance, coming on top of the regular welfare system, in summer 1998. In addition good crab prices eased this transition period for many fishers. Nonetheless, the dependence of normative compliance motivation on economic security, which could be observed in the Norwegian case, was paralleled in Newfoundland interview data (Gezelius 2003:131–3). Whereas effective policies to ensure citizens' economic security have been important to promote normatively based compliance, citizen's empowerment can rightfully be regarded as a precondition for such effective policies. Institutions for citizens' empowerment have been key to ensuring the

[5] Voting procedures were institutionalized in the Norwegian Regulatory Council, established in 1983. In 2006, this council, because women were not sufficiently represented, was temporarily replaced by a Regulatory Meeting, which has no voting procedures. The future of the Regulatory Council is presently uncertain (Gezelius 2008b).

https://doi.org/10.1111/j.1540-5893.2011.00436.x Published online by Cambridge University Press

basic economic security of fishers, whether through resource use rights, bargaining rights, or public welfare schemes.

The South African Case

Compliance Motivations

The third case in our comparison involves small-scale fisheries in three locations along the coast of South Africa (Hauck 2009a; Hauck et al. 2005). One fishery was investigated at each site, and the overall study included fishers harvesting abalone, rock lobster, and bait resources. Compliance research on the abalone fishery has been conducted since 1995, on the bait fishery since 2004, and on the lobster fishery since 2005. A comparative study between these fisheries was undertaken from 2005 to 2008, and data on fishers' compliance motivations were gathered through participatory observation and interviews. All small-scale fisheries in South Africa have been significantly affected by a fisheries transformation process initiated following South Africa's democratic elections in 1994.

A key objective of the first democratic fisheries policy and law in South Africa was to redistribute access to marine resources to previously marginalized people and communities. In other words, many indigenous coastal people, who had been denied access to marine resources during apartheid, were provided new opportunities to legally harvest the resources that they lived adjacent to. This political context of exclusion and transformation is critical to understanding compliance motivation. The discriminatory history of South Africa, which has resulted in significant mistrust and animosity toward the state, has contributed to the absence, noted in recent studies, of the legislator's authority. New laws and rules are met with suspicion, with fishers often arguing that laws are developed without regard for their own needs and customary rights (Hauck 2009a; Hauck et al. 2002; Sunde 2003).

Frustration is particularly evident regarding small-scale illegal fishing, whereby fishers harvest resources as an important means of food and/or income for their household. Although access rights have been radically redistributed, many traditional fishers are still excluded from legal fisheries (Isaacs 2006; Sowman 2006). The national fisheries authority argues that there are too many people and too few fish (Cockroft et al. 2002), but traditional fishers argue that it is their right to gain legal access to resources as a means of sustaining their livelihoods (Hauck 2008, 2009a). Consequently, traditional fishers who have been excluded from accessing formal rights continue to harvest marine resources despite the illegality of doing so. From the fishers' perspective, there is no moral obligation to obey formal law, as they perceive it to be unjust. There are few (if any) social sanctions, including from fishers with legal fishing rights, against small-scale

https://doi.org/10.1111/j.1540-5893.2011.00436.x Published online by Cambridge University Press

illegal fishers, as people's "need" to fish is generally accepted. Thus, with no moral support for the law's content, resistance to state-driven rules and regulations has persisted (Hauck 2009a, 2009b).

The abalone fishery, for example, which was the first commercial fishery in South Africa to be formally closed (in 2008), highlights the severity of noncompliance and the evolution of an illegal commercial fishery (Hauck 2009a, 2009b; Hauck & Sweijd 1999). Similar to fishers in the Norwegian and Newfoundland studies, many South African fishers differentiated between those who were harvesting abalone as a means to maximize gains (perceived to be making large profits) and those who were simply relying on abalone for their livelihood ("just getting by" or "putting food on the table") (Hauck 2009a). Interestingly, although it was recognized that high economic gain had motivated fishers to violate rules, social pressure was weak largely because moral support for the law's content was absent. Many of those who did not support illegal commercial fishing continued to excuse it due to the perception of unjust laws that excluded traditional fishers from the legal fishery (Hauck 2009a). Increased law enforcement was supported, however, when outside opportunists (those who were not traditional fishers) entered the illegal fishery. People's moral distinction between legitimate and illegitimate fishers was made according to their perception of customary rights and economic need rather than according to governmental law. The legislator's authority was clearly absent, and without adequate protection of fishers' perceived rights, there was no moral support for the law's content. Consequently, deterrence—where it existed—was the dominant compliance motivation in all the case study sites investigated.

Governable Preconditions for Compliance

The South African case differs quite substantially from the Norwegian and the Newfoundland cases because the studies of the small-scale South African fisheries indicate that both moral support for the law's content and the legislator's authority are absent. Further, although deterrence is the dominant compliance motivation, even deterrence does not exist in many cases due to ineffective law enforcement and due to corruption. Consequently, noncompliance is high in all the fisheries studied and is considered a key challenge for fisheries authorities. In assessing the governable preconditions for compliance, we discuss law enforcement, empowerment and the construction of civic identity.

In South Africa, although fisheries law enforcement capacity has increased since 2000, particularly in terms of special investigations and intelligence gathering (Hauck & Kroese 2006), law enforcement's ineffectiveness concerning noncompliance in coastal communities is widely acknowledged. In addition to the lack of

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visible patrolling, fishers generally acknowledge that corruption is extensive (Hauck 2009a). With the national police commissioner of South Africa arrested for corruption in late 2006, there is significant mistrust of enforcement agencies. Studies have indicated that half of South Africans have little or no trust in the police and believe that most police officers are corrupt (Faull 2007:3). This lack of confidence in law enforcement, coupled with inadequate patrolling and visibility, has led to a weak deterrence effect. Furthermore, strong fisher opposition to law enforcement due to the perceived injustices of fisheries laws has caused direct conflict with law enforcement authorities, including violence against enforcement personnel in some coastal communities (Hauck 1999). Such conflicts have led to the need for some fisheries inspectors to carry guns and rely heavily on established partnerships with South Africa's police forces, army, and navy.

While most fishers in the case studies acknowledged that law enforcement was an important aspect of fisheries management, they argued that it cannot be implemented without broadly supported laws. All three of the fisheries studied provided concrete examples of centralized decision making that led to significant opposition by the fishers and increased animosity toward the state. The lack of empowerment of fishers, therefore, emerged as a major cause of noncompliance in these cases. Fishers in all the case study sites have argued vehemently for more equitable participation in decisions that affect them (Hauck 2009a; Hauck et al. 2005). An important part of this picture is that, unlike the governing systems of Norway and Canada, the young South African democracy has yet to produce coherent public welfare systems that effectively protect fishers from severe economic consequences of management decisions. This lack of an adequate welfare system (Brown & Neku 2005) increases the perceived need among fishers for direct influence on decisions regarding their resource harvesting rights.

During the apartheid era, a few large companies dominated the South African fisheries and provided a manageable group of stakeholders that the state could negotiate with. These state-industry relations resulted in cohesive decision making bodies for commercial industry (Hutton & Pitcher 1998; Raakjćr-Nielsen & Hara 2006) but largely marginalized small-scale fishers that had been excluded from the formal fishing economy by state legislation. The democratic fisheries law passed in 1998 transformed the fisheries radically by granting access rights to many of the previously excluded small-scale fishers, which resulted in almost 6,000 rights holders with legal access in 2004 as compared to 300 in 1994 (van Sittert et al. 2006:102). However, the new fisheries law brought two significant challenges. First, many small-scale fishers were still excluded from legal fishing due to the access criteria of the new fisheries law. In the absence of

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functioning institutions for empowerment, access criteria had been decided at a national level and resulted in many fishers still feeling unjustly excluded. Second, the rapidly increasing number of legal entrants made the lack of institutions for empowerment into a manifest management problem because of a pressing need for effective dialogue and conflict resolution between the established big industry and the wave of new small-scale quota holders (Hutton 2003; Raakjćr-Nielsen & Hara 2006). Consequently, moral support for the law's content proved difficult to establish even among those who were granted access rights.

Whereas Norwegian and Newfoundland fishers have been organized at a national level for several decades, no such cohesive organization has existed for South African fishers. Unlike the state-supported organization process in Norway, early South African attempts to organize small-scale fishers aimed to fight the state and its apartheid system, although without producing lasting organizations. No national association currently exists to represent the interests of small-scale fishers, and many small-scale fisheries are not organized at all. Some larger fisheries are organized into associations and sit on industry-government working groups, but such organization is weak in most cases (Hutton 2003; Raakjćr-Nielsen & Hara 2006). The lack of sufficiently representative organizations means that conflicts of interest, most typically between the small-scale and the large-scale fishing operations, seldom transform into constructive political force. The Western and Northern Cape coasts, where the industrial fisheries are centered, saw an impetus for ad hoc organization around the specific issue of fishing rights before and after South Africa's transition to democracy. However, only recently has post democratic legal and policy development provided a political mechanism for small-scale fishers to lobby government and to raise their concerns. As a result of these policies, several community-based fishing organizations, some facilitated by a local nongovernmental organization, have emerged since 2000. The state has also in recent years initiated a few community-level co-management arrangements, although these have had limited success (Hauck & Sowman 2003). Organization is still fragmented, and formal institutions for proper state-fisher communication remain to be built. High levels of mistrust between the fishers and the authorities remain. It can be argued that organizing the small-scale fishers so that all legitimate interests are properly voiced and represented is an essential first step toward empowerment of South Africa's fishers.

In sum, autonomous decision making by the state, coupled with a recent history of racism and discrimination, has resulted in weak support for the law. The strong civic identity described in the Norwegian case is largely absent in South Africa. As Bentley and

https://doi.org/10.1111/j.1540-5893.2011.00436.x Published online by Cambridge University Press

Habib (2008:8) state, "Identity in South Africa is a complicated matter." They argue that in one decade, the country has moved from a complex legal system of racism to a constitutional democracy, but this transition has been embedded in social, political, and economic inequality. Nation-building, therefore, rests on redressing historical disparities while simultaneously facilitating a single national identity (Bentley & Habib 2008). Although a key goal of South Africa's constitution is to "heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights" (Constitution of the Republic of South Africa 1996: preamble), some assessments have argued that democratic economic policies have in fact exacerbated inequalities and poverty (United Nations Development Programme 2003), and some fishers have perceived that they are worse off than before (see Cardoso et al. 2005). It can thus be argued that South Africa still has a long road ahead before preconditions for the legislator's authority are met in major parts of the population.

State Type Classification

Based on data about South Africa's fisheries governance, with its weak civic identity coupled with severely limited empowerment of fishers, we developed the theoretical ideal type of the unembedded state. South Africa, with its young democracy and early nation-building attempts, continues to grapple with a weak civic identity that remains fraught with inequalities. Despite the social justice agenda in new laws and policies, the social identities of South Africa's citizens remain fragmented (Bentley & Habib 2008). These characteristics have resulted in high levels of resistance against fisheries laws and high levels of noncompliance. Although progressive democratic laws are in place, including the Constitution, that promote the need for social justice, human rights, and participatory governance, implementation is slow and important inequities in terms of citizens' empowerment remain (Hauck & Sowman 2005). Thus, noncompliance is often motivated by fishers' economic needs and perceived customary rights. Consequently, the reliance of South Africa's compliance discourse on deterrence entails that this discourse fails to address the fundamental motivators of fisher behavior. Although deterrence influences compliance, a sole reliance on law enforcement has exacerbated conflict and animosity toward the state and has fueled further resistance through illegal fishing. Thus, building institutions for citizens' empowerment that ultimately can protect fishers' perceived rights and sustain fishers' livelihoods are key to enhancing fisheries compliance (Hauck 2008, 2009a).

https://doi.org/10.1111/j.1540-5893.2011.00436.x Published online by Cambridge University Press

Conclusion

This study has addressed the question of how states can best promote citizens' compliance with laws that regulate livelihoods. The study has identified three governable preconditions for compliance—enforcement, empowerment, and civic identity—that each promote their respective type of compliance motivation: deterrence, moral support for the law's content, and the legislator's authority. The study thereby generates a theoretical typology of states—the unembedded state, the semi-embedded state, and the embedded state—based on the governable preconditions being met.

While all state types may benefit from paying attention to all three governable preconditions, we argue that the compliance discourse in a given type of state should be framed such that it includes at least the governable preconditions for compliance that have not been met in that state. Our data illustrate that failing to do so may have highly undesirable social consequences and subvert implementation efforts. In embedded states, civil society will often ensure compliance through informal mechanisms of social control, because institutions for ensuring moral support for the law's content and for the legislator's authority have already been established. These compliance mechanisms are thus often taken for granted by regulatory agencies, who therefore frame their compliance discourse as a matter of deterring a minority of potentially noncomplying citizens from breaking the law. This approach may often not lead to severe problems in embedded and semi-embedded states because citizens perceive enforcement as supporting—or at least not violating—their basic moral values. However, when such a narrow compliance discourse is exported to unembedded states, the results may be disastrous in terms of consequences for citizens and for state-society conflict.

In embedded states, our research problem may often be framed as a question of enforcement style: the extent to which deterrence-oriented strategies should be combined with argumentation, guidance, and moral discretion (Kagan & Scholz 1984; May 2004). However, our study suggests that the compliance discourse in unembedded states should extend significantly beyond enforcement style and address compliance as a matter of constructing basic institutions for state-society interaction. Only functional institutions for citizens' empowerment can provide a guarantee against laws that violate civil society's morality. Consequently, only when such institutions have been established can law be shaped in such a way that it has sufficient moral support to enable enforcement personnel to use discursive means to persuade citizens to comply. Equally important, only when institutions ensure that law is to some extent

https://doi.org/10.1111/j.1540-5893.2011.00436.x Published online by Cambridge University Press

embedded in civil society morality can deterrence-oriented enforcement be used without creating massive hostility in civil society. Exporting a narrow deterrence-oriented compliance discourse from embedded to unembedded states, therefore, provides for a worst-case scenario: that the state is perceived as using coercion to violate citizens' fundamental rights. Arguably, fisheries management worldwide is presently characterized by the exportation of such a discourse. Despite significant national differences regarding the extent to which the governable preconditions for compliance are met, the fisheries compliance discourse at management level is quite homogeneous worldwide, focusing on deterrence by means of coercive law enforcement as the dominant compliance strategy employed by the state. Exporting a deterrence-oriented discourse may perhaps not seem inappropriate at first glance; it may seem pertinent to argue that when the state has little capacity to generate normative compliance motivation, it should indeed focus strongly on generating effective deterrence. However, this article argues that a deterrence-oriented compliance discourse in an unembedded state is likely to impede the long-term development of that state's governing capacity. Consequently, great caution should be displayed in terms of exporting the developed world's deterrence-oriented compliance discourse to the developing world; the question of deterrence should be regarded as secondary to the question of empowerment in many developing world settings.

Our research problem and the answer that we have given raise the following question: Where should an unembedded state begin in terms of promoting compliance in state-regulated livelihoods? We hold that empowerment should be the primary element of the compliance discourse in unembedded states for two reasons: first, empowerment is key to achieving moral support for the law's content, which is especially critical in matters of perceived human rights such as people's basic economic security and customary practices; second, empowerment is an important element in the long-term construction of civic identity and thus is important to facilitating the legislator's authority. Consequently, unembedded states may pursue normative compliance motivation in state-regulated livelihoods through four steps. The first step would be to promote the construction of civil society organizations that are capable of representing the people affected by regulations and of voicing their needs and perceptions. Critically important is that all legitimate interests have proper representation. The second step would be to construct institutions for interaction between these organizations and the state. Such interaction should include participation in formulating regulations. It should also include negotiation and arbitration between conflicting interests. In settings

https://doi.org/10.1111/j.1540-5893.2011.00436.x Published online by Cambridge University Press

where limited administrative and organizing capacities prevent effective institution-building on national levels, local resource management could be a functional place to begin a process toward citizens' empowerment (see, e.g., Braithwaite 2006; Pinkerton 1989). The third step would be to construct systems capable of enforcing regulations in a manner that, according to feedback received from organized citizens, is perceived as credible and fair by those affected. The final step would be to further promote the long-term construction of civic identity—a process that has already begun with the previous three steps—by using democratic institutions as a basis for nation-building.

Our theoretical framework may be applied, developed, and tested by further research in all sectors that sustain livelihoods. Compliance motivation research so far has largely addressed nation-states with old institutions for citizens' empowerment and developed economies. Our theoretical field will benefit from further studies of such countries, but there is a particular need for further research in countries with young and developing institutions for citizens' empowerment and young nation-building projects. We tentatively suggest three groups of countries for which further research should be particularly encouraged. First are post colonial developing countries where citizens have limited economic security, conflicting social identities, and social hierarchy traditions that may differ from those of citizens in the Western world. Second are countries in Eastern Europe that have experienced recent democratization and nation-building. This group overlaps with the third group of countries: the European Union (EU), with its extensive transfer of legislative competence from national to supranational legislators. Especially after its recent eastward expansion, the EU's combination of national and supranational business regulation applies to countries with very different histories of nation-building and citizens' empowerment, and with significantly different abilities to influence supranational regulations.

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https://doi.org/10.1111/j.1540-5893.2011.00436.x Published online by Cambridge University Press

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https://doi.org/10.1111/j.1540-5893.2011.00436.x Published online by Cambridge University Press