

CHAPTER 32

Language, logic and legislation: The recent Irish experience of Atlantic salmon management

Noel Wilkins, Department of Zoology, National University of Ireland, Galway, Ireland

Introduction

In this paper I will describe the way in which Ireland set about bringing order into its salmon fisheries in recent years. It may also help you to understand why we respond in the way we do to the unremitting, strident calls for the banning of our commercial fisheries and show you that we are nevertheless achieving our aim of increasing protection of the wild salmon stocks.

In Ireland, spoken language and body language are necessary, but not sufficient, to achieve good legislation that people will willingly embrace. When calls for legislation are based on poor or inadequate reasons, or on reasons that do not appear to be *ad rem*, then language alone is never sufficient to drive legislation.

“Ban drift netting”, “Stop commercial fishing”, “Over-exploitation”, “Mass slaughter at sea”, “Buy them out!” Throughout the 1980s and 1990s, commentary on the Irish salmon resource was widely couched in these or similar words. The aim was to force changes in the legislation that would put an end to the commercial drift and draft net fisheries for salmon in coastal waters. Salmon catches and stocks were in serious decline all over the Northern Hemisphere and it was felt that something ought to be done legislatively to halt the decline. It stood to reason that the commercial fisheries were to blame.

What logical reasons could be invoked to enable the sentiments underlying such language to be translated into legislation? The obvious articulation, the one most commonly used, was “For conservation”, more especially “To conserve wild salmon stocks”. Such logical or rational reasons might be expected to gain widespread approval and to support good legislation. After all, there are 42 parliamentary constituencies in the Irish jurisdiction and 21 of these are coastal, returning a total of 76 members to the 166 seat Dáil (parliament). But anglers and netsmen make up about 1% of the population. The other 99% should also understand the logic of any legislation that might be proposed.

The meaning of conservation

But what exactly do these conservation terms mean? What logical or conceptual constructs underlie them? There is no consensus over the meaning of “conservation”. That it involves “doing no damage or harm to the thing conserved” is a necessary element of whatever definition we choose:

[Conservation is] preservation from harm or decay, or protection from loss or consumption.

Many people would be happy with this, leaving aside the question of whether it is a sufficient definition. Most would also, I believe, subscribe to the view that living organisms are worthy of protection and conservation *for their own sake*, not just because they may or may not be of value to man. Cormorants, for instance, are a protected species in Ireland although they have no economic or user value and are, in fact, serious predators on juvenile salmon. Many species of plants and animals are deemed worthy of conservation in this way.

“Conservation of wild salmon stocks” then means doing nothing to damage or harm the indigenous wild stocks and their habitat, either in the rivers or in the sea. Wild salmon are worth conserving because, like cormorants, they are part of the rich diversity of life on our island.

True conservation of wild stocks therefore implies that we refrain from all actions that impact on the stocks, *even positive actions like habitat rehabilitation, enhancement and restoration*. Hatcheries, for example, are anathema to true wild stock conservation. We must leave the habitat severely alone and leave natural selection to determine the abundance, the fate and the nature of the indigenous stocks. That is the only way we can conserve truly *wild* stocks. If wild stocks fail through natural causes not caused by man, there is no way we can, or maybe even should, interfere with them without altering their wild status. “Restoration” can never restore a lost wild stock. Nor can a wild stock be enhanced or augmented and still remain truly wild. That is the logic of a pure conservationist approach. About 15% of the “wild” salmon taken by the Irish west coast fisheries are hatchery-reared, ranched fish. They are not, therefore truly “wild”. Would it really help matters if we were to give up producing them?

Obviously, if we espoused a purist approach our legislation would end up prohibiting all management action, good and bad, affecting wild stocks. Such an approach is, of course, entirely unrealistic in this day and age. For that reason, the appeal to pure “conservation” as a reason for a legislative ban on commercial fishing alone – there was no talk of a ban on angling – was both hollow and inadequate. As a justification for the banning of commercial salmon fishing it certainly never cut any ice with Irish coastal fishermen.

But modern definitions of conservation are much less stringent than we might think. One example is the Ramsar Convention on Wetlands definition (1):

Conservation is “the protection, improvement and wise use of natural resources to provide the greatest social and economic value for the present and the future”.

Put simply, *it is the wise use of a resource.*

In this perspective, the idea of conserving something *for its own sake* is replaced by the concept of its *sustainable use* because the thing has a value to man. Because sustainability entrains the idea of usefulness or other value to humankind, it includes the user within the ambit of conservation. Without value to the user the logic of sustaining something fails, unless, of course, we return to the ideal of true conservation “for its own sake”.

Replacing *conservation* with *sustainability*

With this new approach, “sustainability” can replace “conservation” as a rational and pragmatic basis for protective legislation regarding wild salmon stocks. This altered perspective is not just mere semantics and it can have a dramatic effect. “Conservation” has been used as a verbal club with which to batter some resource users. “Sustainability” involves inclusive language and behaviour that are more realistic and more management oriented, taking account of the need to consider all the users and the common good. Its language encourages sharing and balancing of rights and benefits, enhancement and restoration of stocks where necessary, and overall regulation in the common interest of the resource and the users. It makes parties of stakeholders in the resource rather than simple exploiters of it. The interrelationship of

language, logic, legislation and management under the different perspectives can be illustrated as in Table 32.1:

Table 32.1. The interrelationship of language, logic, legislation and management for the perspectives of *conservation* and *sustainability*

| | CONSERVATION | SUSTAINABILITY |
|-------------|---|---|
| Language | Exclusive, confrontational, “Them and us” | Inclusive, supportive, “All of us together” |
| Logic | Adversarial | Cooperative |
| Legislation | Prohibitive | Facilitative |
| Management | “Hands off” | Regulatory |

The value of a resource may be economic, cultural, social or political and the exact value will be different for different users. In Ireland, the net fishery for Atlantic salmon has an economic and social value in the coastal communities that harvest salmon in the sea. At the same time salmon has a leisure and economic value in angling by tourists and locals. Within a sustainability framework, the rights and shares of all the different users fall to be determined by many factors, which will include stock abundance, among other things.

The language illustrated at the start of this paper is not primarily the language of conservation, although it purports to be about conservation. It is language about the way in which the salmon ought to be divided between the various user groups, in this case the angling and the commercial interests. It implies that no share at all in the salmon harvest should be allocated to the net fishermen. The net fishermen realised all along that *resource allocation*, and not *resource conservation* was the basis of this language and that is why it cut no ice with them.

Examples of what I call the cross-wiring of language and logic – where the language appears to be based on one idea but in fact relies on another – are common in resource-based conflict. For instance, when the European Commission justified, on wide conservation grounds, certain policies affecting sea fisheries in Irish waters the fishermen quickly responded (2nd definition of conservation – O’Driscoll and Hassett, 1996):

[The Commissioner’s] philosophy and concepts are anathema to us.... Conservation is the battlecry which she and other EU figures use and everyone has to agree with that. If this is so, why did the EU allow 40 extra Spanish vessels into Ireland’s coastal waters from January 1, 1996? This wasn’t supposed to happen until the year 2002.

Problems with the meaning of “conservation” are not unique to Ireland or to the salmon. As Dr. Crawford of the University of Guelph said in the Canadian context:

...Conservation has become a political tool which is shaped and re-shaped to serve the needs of the party defining the term. There can be no rational discussion of fisheries conservation, when the basic values and principles are not clearly understood and accepted. ‘Conservation of what, for whom, and for what reason?’

Another example concerns one of the supposedly most cogent arguments for banning salmon net fishing used by Irish and other “conservationist” interests. The value to the country of a salmon caught on rod and line by a tourist angler is said to be fifty times the value of a net-caught salmon, and therefore the net fishery ought to be banned or bought out. That, of course, is not a conservation argument at all (although it may be a good reason to rebalance the catch towards greater harvesting on land). Such economic

arguments are based on the logic of sustainability and not of conservation. If the economic benefit of tourist angling is to be an appropriate consideration at all, then simple equity and plain economics dictate that it needs to be balanced with the social and economic consequences to coastal communities of the closure of the net fisheries.

When language becomes uncoupled from logic, confusion is inevitable and good legislation is unlikely.

Salmon Management Task Force

Throughout the 1980s and 1990s, beating the Irish netsmen over the head with the battle axe of “conservation” was doing more harm than good, so that by 1995 salmon management was in crisis and was costing millions of pounds to monitor and maintain in some semblance of order. The then Minister for the Marine set up a Task Force to develop new practical proposals for the management of the wild salmon stocks. It was made up of one member of the commercial and one of the angling sector along with one member of the scientific and two members of the fishery management services. I was the Chairperson. It sought and received over 200 written submissions and held meetings at the regional level at which all parties were invited to participate fully in the consultation process.

The Task Force was fortunate that the salmon resource was not entirely *in extremis* so that it could take a “sustainability” rather than strictly “conservationist” approach to the problem. Its first recommendation (3rd definition of conservation – Task Force Report to the Minister) was to identify the stakeholders in the resource, clearly and specifically including the commercial net fisheries among them:

The legitimate interests are the spawning escapement, the legal commercial fisheries (drift, draft and other nets and traps), the recreational fisheries (rod anglers and fishery owners) and the wider economic community...

Once “sustainability” and not strict “conservation” was adopted as a rationale, no other position seemed realistic or pragmatic. Recognising the legitimacy of the commercial sector and guaranteeing it a share in the resource signalled the profound change in strategy and approach that the Task Force was attempting. To have recommended the banning of commercial net fishing – as conservationists were insisting in the language already quoted – would have pushed the net fishermen further away from management and regulation and could thereby have exacerbated the trend towards unregulated net fishing. Any legislative ban could also have alienated legislators in coastal constituencies from their constituents and it would have greatly increased the difficulties facing regional fishery managers.

Instead, the Task Force eschewed the calculus of blame inherent in the language of “conservation” that would have aggravated the “them and us, conservationists versus exploiters” approach to salmon.

The inclusion of the net fishermen was seen in some quarters as an abject failure to aid in conservation. But in fact the inclusive approach proved to be one of the principal drivers of the new management strategy that the Task Force was initiating. The commercial fishery interests, up until then largely criminalized and excluded from all participation in the management of the resource (on which their livelihood depends in part) now became central to its success. They were brought firmly within the community of stakeholders who would share, in an equitable way, the gain (and the pain) of any new management strategy. This gave them respect, recognition and a voice, for the first time, in the development of the salmon stocks.

The Task Force’s second principle placed the salmon, not the fisheries, at the core of its proposals:

The maintenance, and in due course the augmentation, of the spawning escapement share at the best practically achievable level is the most fundamental, inclusive and necessary demand on the resource; all other shares must be subservient to this...

This principle was unique in Ireland. All previous strategies had attempted to address directly only the fisheries; that is, they attempted to control the catches by effort and gear limitation alone. The new strategy is pro-active and its chief aim is to maintain the spawning escapement. That may, or may not, require limits on the fisheries, but it will also involve attention to other aspects of the salmon life history and habitat. Practical spawning escapement levels depend on the carrying capacity of the rivers and that is dependent on extraneous influences like water flow, pollution control, removal of obstructions, restoring substrate quality and so on. In other words, sustainability means more than just fishery limits. Once attention was diverted from the obvious net fishery scapegoat these contributors to the decline in the stocks came more sharply into focus.

Introduction of Total Allowable Catch (TAC) and quota

The third principle was a recognition that the salmon resource is finite and therefore the harvestable surplus over the spawning escapement is finite too. The finite, harvestable surplus is the Total Allowable Catch (TAC) in any year and this is what must be shared equitably among the legitimate interests.

The sharing process, between the netmen and the anglers, is managed by quotas allocated to each sector. At a practical level, the Task Force proposed the introduction of carcass tags to monitor the catches and to assist in allocating the quotas.

TAC and quota are so often allied that the subtlety of their distinction is sometimes lost. TAC is a pure biological conservation measure – it limits the number of fish to be killed. It can be set by reference to criteria like conservation limits that are based on stock abundance and the carrying capacity of the environment. These are measurable with a fair degree of confidence. Reasons for TAC changes, upwards or downwards, are based on stock abundance and can be transparently explained.

Quotas, on the other hand are not conservation actions. They are simply the means whereby the TAC is allocated between competing interests. Quotas can be set and altered using criteria that have no relevance whatever to the salmon stock. Legislators can, for instance, decide to allocate or alter a zero, or any other, quota to any sector based on historical, social, economic or any other consideration. In the words of the Task Force report, "...The apportionment of quotas between the catching sectors, and its rebalancing from time to time, is a matter of policy to be decided by the Minister..."

By refusing to be swayed by calls to ban commercial fishing on spurious conservation grounds the Task Force succeeded in creating a sustainability ethos which encompassed and gave respect to all the traditional resource users and in which the salmon spawning escapement, not the fisheries, was at the heart of the strategy. By introducing TAC and quota it provided a mechanism in which the utilization of the resource by different interests could be controlled, partitioned and monitored, with an effective and transparent mechanism for modulating the catch and its partition as circumstances dictated.

The net fishery sector embraced the new regime positively in the spirit of compromise and a willingness to give it a try. The commercial fishermen were already familiar with TAC and quota regulations in EU sea fisheries so the new scheme raised fewer fears among them. They have continued to operate the strategy and the carcass tag monitoring scheme, with over 95% compliance. This cooperation was achieved despite the increased catch and effort regulations that were introduced concomitantly by the Task Force. There was a real cost of admission to the community of stakeholders: numbers of fishing days were reduced, territorial fishing limits at sea were restricted, and night time fishing was made illegal. These controls are unlikely to have been acceptable if the fishermen did not feel that they now had a stake in the health and abundance of the stocks. From now on, whatever damaged the stocks was seen as a threat to the salmon harvest in which they had a guaranteed share and it was in their own interest, not that of the land-based anglers alone – that the stock be maintained and restored. A methodology for proper long-term regulation and stock maintenance was being put in place with their consent and participation. Extreme conservatism on its own had never achieved, and never could, that level of cooperation.

On the other hand, some angling leaders, self-styled conservationists, were less willing to embrace the new strategy. Their language remained as unchanged as their ideas. They resisted the introduction of the carcass tags and logbook scheme, even as they saw the net fishery come under reductions in TAC. As recently as January of this year (2003) they resisted proposals for a token annual bag limit of 20 fish per rod licence on the basis that it was not enough for them. Yet, if all the 30,000 rod licence holders were to catch 20 fish each, the total rod catch would exceed the TAC for the nets, by a factor of over three times.

Individual anglers, realising that everyone was sharing the pain, and that the new strategy was addressing all aspects of the fisheries, came around to supporting the strategy despite their leaders' opposition. They, too, were more impressed with the philosophy and concepts of the Task Force approach than with their leaders' language of purported conservation.

To have detoxified the previously poisonous atmosphere that pervaded Irish salmon management by so simple an approach was itself a remarkable achievement of the Task Force. As an editorial in the Irish Times (4th definition of conservation) saw it:

The [Task Force] report struck an equitable balance between the needs of competing interest groups, and between the demands of conservation and coastal livelihoods. Human life-cycles too are at stake.

Progress since the Task Force Report

Since the Task Force report, salmon management in Ireland has progressed, by consensus, to regulation, enhancement and considerably lowered harvesting of wild stocks. The TAC for the nets in 2003 is set at 182,000 salmon against 240,000 in the 2002 season. Another step in the process of optimising the salmon resource was the recent release (June 2003) of an "Economic/socio-economic Evaluation of Wild Salmon in Ireland" by INDECON International Economic Consultants (5th definition of conservation).

Remarkably, the very first recommendation of that Report is couched in a partial negative:

*We do **not** recommend the ending of commercial salmon fishing but believe that the level of catch should be aligned with sustainable development. (Emphasis original).*

This new Report builds on the logic and the sustainability approach of the Task Force. It says nothing new that was not already said by the Task Force. In brief, it proposes that greater economic benefit will accrue to the State if the quotas are re-balanced to permit a greater portion of the catch to be made by anglers. But it will not be universally acceptable. Its analyses appear simplistic and it takes an economic impact rather than an economic value approach to the resource when the latter might have been more appropriate for the long term. There is also a very real danger that some interests will misinterpret or misuse its scenarios for sustainable development as pragmatic options, rather than as the very simple illustrative models that they really are.

In Irish we have a saying "Tús maith leath na hoibre – "well begun is half done" is a fair translation. The Task Force Report was a new beginning for salmon management in Ireland. It initiated and fostered a sustainability ethos within which the latest Report has relevance and some realism. It is much to be hoped that the consensus won by the Task Force will prove robust enough to permit all sides to give the new Report the careful and balanced consideration it warrants.

References

Editorial, *The Irish Times*, 23 Sept. 1997.

Indecon International Economic Consultants. An Economic/socio-economic Evaluation of wild salmon in Ireland.

Report to the Central Fisheries Board, Ireland, April 2003.

O'Driscoll, D. and T. Hassett, fishermen's representatives, Letter to *The Irish Times*, 16 Dec. 1996.

Ramsar Convention on Wetlands, <http://www.ramsar.org/>

Salmon Management Task Force. 1996. *Making a New Beginning in Salmon Management*, Dublin: Department of the Marine.