

The Customs and Culture of Surfing, and an Opportunity for a New Territorialism?

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ABSTRACT

The sport of surfing has grown by leaps and bounds since it first took off around the world in the 1950s. Today, there are over 10 million surfers worldwide (BUCKLEY 2002a), which means that especially in popular surfing locales such as California, Hawaii, and Australia, uncrowded waves are a rarity. Surfing is an individual sport, best enjoyed with one rider on one wave, not a crowd. Like most problems, crowding generates behavioral responses, and two in particular have had some degree of success.

The first response attempts to accommodate the crowds through a surfer's code of conduct, which sets informal rules and self-enforced regulations to avoid conflict on the water. The second, known as localism, is an attempt to reduce the crowd by using violence and conflict on the water to stake out exclusive territories. In each case, the threat of violence or at least social sanction is used to discourage miscreants or interlopers. The surfer's code is generally a source of pride among surfers, while localism is primarily viewed as a stain on the surf community.

One of the reasons why surfers tend to be so protective of good surfing spots is that they are limited in supply. The emerging science of creating artificial surfing breaks, however, may begin to address that, and this paper will weigh the opportunities presented by this new technology for changing institutional structures.

ACCESS TO THE WAVES

The notion of the Freedom of the Seas was popularized by the Dutchman Hugo Grotius in the 17th Century, and has held sway ever since. In his famous treatise, *Mare Liberum*, Grotius proclaimed that the oceans and their resources were inexhaustible and demanded freedom of access for everyone. What is generally forgotten is that Grotius had an ulterior motive; as a Dutchman he was concerned by the British navy's efforts to control the high seas and therefore Dutch trading (CHRISTY and SCOTT, 1965).

Grotius' ideas still hold sway over shipping today, as well as over everything from fishing to surfing. The Surfrider Foundation, a prominent environmental group focused on the surfing environment, has as part of its core mission to promote "free and open access to the world's waves and beaches" (SURFRIDER, nd). Most national and state laws around the world take a similar view. In California, for example, private property in land may not extend beyond the average high tide mark. And even in those areas that may be leased for specific activities such as oyster cultivation, the right of passage overhead remains.

A well-shaped wave approaching the beach is a valuable resource, albeit a fleeting one. And open-access to valuable resources, especially in populous places like California, inevitably leads to what GARRETT HARDIN (1968) famously termed "the tragedy of the commons". Hardin's essay was also famously off base about the exact nature of the "commons", and a host of scholars have since pointed out the wide variety and frequent effectiveness of both

formal and informal communal property systems that Hardin lumps into his “commons” (BERKES *et al.*, 1990). Still, the tragedy of the commons remains relevant today because writ large (that is, more narrowly defining the common as open access), HARDIN (1968) was right that “Ruin is the destination toward which all men rush, each pursuing his own best interest in a society that believes in the freedom of the commons.”

PARALLELS TO THE FISHERIES

Free and open access to the marine environment has caused its share of mischief around the world, most notably in the world’s fisheries. In the United States, The National Marine Fisheries Service reports that almost one-quarter of U.S. fish stocks are overfished, and almost 40% are fished at their maximum level of exploitation (NMFS, 1999). Fisheries depletion is widespread throughout the rest of the world as well. Much of the problem stems from a longstanding set of fishing rules and regulations that ignore, or in many cases undermine, the territories and norms created by local fishermen to address the problems of open access.

Much of the sea may look like an open-access commons, but much of it is not:

‘It is one thing to contemplate the inshore sea from land’s end as a stranger, to observe an apparently empty, featureless, open accessed expanse of water. The image in a fisherman’s mind is something very different. Seascapes are blanketed with history and imbued with names, myths, and legends, and elaborate territories that sometimes become exclusive provinces partitioned with traditional rights and owners much like property on land.’ *JOHN CORDELL (1989, p. 1)*

Handed down from Grotius, the idea of free access to marine resources is largely a Western notion. Throughout the South Pacific, for example, tightly controlled access to marine resources such as coral reefs and other fishing grounds was common before European contact. As ROBERT JOHANNES (1978) noted, “The most widespread single marine conservation measure employed in Oceania, and the most important, was reef and lagoon tenure”, which was typically “controlled by a clan, chief, or family”. In the past, punishments for interlopers could be as severe as death. Johannes believes that there was not an island in Oceania where marine resources were conserved more effectively today than they were before European control.

Some of these marine tenure arrangements are now legally recognized, but more often than not they are informal. Informal codes of conduct may be very effective, and they are also common in Western society as well. One of the most famous examples is the Maine lobster fishery, where lobstermen have formed ‘harbor gangs’ to mark territories and turn away outsiders, often by violent means (ACHESON, 1987). These gangs effectively address the overcrowding and overfishing problem, and as a result, areas controlled by the gangs produce higher catches, larger lobsters, and larger incomes than areas outside their control (ACHESON, 1987).

Efforts to territorialize fishing are gaining momentum worldwide, particularly with the creation of Individual Fishing Quotas (IFQs) in places like New Zealand and Iceland. When governments create IFQs to manage a fishery, they assign a percentage of a scientifically-determined total allowable annual catch to individual fishermen, who are then free to fish or trade that right. IFQs are most fully developed in New Zealand, where the system seems to have successfully created an interest in the long-term health of fisheries among quota owners (BATSTONE and SHARP, 1999). Owners of fishing quotas in New Zealand have also

formed management companies, which facilitate cooperation among fishermen and reduce competition on the water.

Of course, there is a major different between fish and waves. Fish populations are extractable and therefore subject to depletion. Surfable waves, on the other hand, may suffer from overcrowding, but they are an inexhaustible, un-extractable resource. This may explain the reticence toward limiting access to surfing areas, because while crowds may reduce the individual surfer's experience, there is no real negative environmental impact. With the rise in frustration and even occasional violence due to overcrowded waves, however, perhaps territoriality should be reevaluated.

WHEN TERRITORIALISM WORKS

Surfing was invented in Hawaii, and was popular long before European contact. Today, the easy going Hawaiian spirit is revered as an ideal of surf culture. But a closer look at history reveals that the old Hawaiians most certainly did not believe in open access to the waves.

“Surfing in pre-European Hawaii was an important part of everyday life and culture, with strong class overtones. Longer, better-riding boards and the best surfing breaks were reserved for members of the ruling class, the *alii*. These longboards, called *olos*, could reach 16 feet and weigh as much as 150 pounds. Commoners used shorter boards, called *akaias*, which were about 8 feet long. Children surfed little planks called *paipos*, similar to today's bodyboards. A commoner found using an *olo* or surfing a royal break could be put to death.”
(DIXON, 2001)

Robert Johannes' 1978 article on traditional marine conservation throughout Oceania painted a bleak picture for the future, but by 2002, his outlook had changed, as communal tenure systems began being formally recognized in places like Fiji (JOHANNES, 2002). Fiji is an especially interesting case because a Fijian surf resort called Tavarua has grown out of this marine tenure system. That is, because a particular world-class surfing area is part of a reef area owned by a community, that community has been able to offer an uncrowded surfing experience, for a price.

Even in California, where the public trust doctrine holds sway, there are legal restrictions on coastal access in places like The Ranch, a surf spot in Santa Barbara County famous for its breaks and the fierce territoriality of its owners. More widely known as the Hollister Ranch, the area was, and still is, largely a working cattle ranch dating back to a Spanish land grant covering 14,000 acres and eight and half miles of private beach. In the 1950s and 60s, the owners granted some access rights for recreational use to a regional hunting club, which later subdivided into a number of clubs including the Santa Barbara Surf Club, which subsequently controlled access to the waves through the 1960s (HELLER, 2000).

When the ranch was subdivided in the 1970s, a number of affluent surfers saw their chance to buy an uncrowded surf experience in Southern California. As one surfing website describes it, “The Ranch would be one of the most crowded spots in California if it weren't for the \$75,000 parking pass” (SURFLINE, 2004). By law only shoreline access can be limited, so it is common for surfers to arrive by boat, although *surflines.com* notes that the pier winches at the closest launch are almost always “broken”, and “If you do pull up at one of the headliner breaks in an inflatable, chances are you will either be glared at or told to split” and “watch out for the kamikaze Ranch local in scuba gear who specializes in pulling anchors.” As for the land approach, security is tight and trespassing is aggressively prosecuted.

The Ranch inspires mixed feelings among many in the surfing community. A recent article in *Surfer Magazine*, for example, lamented the elitist nature of The Ranch, but at the same time, recognized that this exclusivity has “preserved some of the last coastal wildlands left in Southern California” (BARILOTTI, 2003). Still, places like Tavarua and The Ranch are rare. Elsewhere, there is little tolerance for attempts to limit access to a resource, especially when extralegal efforts to do so result in violence and property damage.

WHEN LOCALISM DOESN'T WORK

Surf localism without any legal rights to back it up is resoundingly reviled by the surfing community, and with good reason. Without the recourse of legal sanction, localism often descends into violence.

In 2001, a father and son trying to surf in Palos Verdes Estates brawled with a local surf gang, resulting in trips to the hospital, misdemeanor charges, and subsequent efforts by the community to prevent future violence, including a camera monitor and a neighborhood watch system (WEISS, 2002). Also in 2002, three San Francisco surfers faced felony assault charges after fighting with another surfer and telling him “Don't ever . . . surf here again” (GATHRIGHT, 2002). Similar instances in the past led to ultimately unsuccessful legislation proposed in California that would have made it explicit in state law that no one may “lawfully claim the right to a wave” (GATHRIGHT, 2002). The law would also have classified a surfboard as a “deadly weapon” if used in an assault.

The success and legitimacy of (or at least blind eye of the law to) the lobster gangs of Maine is now well recognized – but policymakers and law enforcement agencies can see that the arrangement clearly protects the exhaustible lobster resource. Waves, on the other hand, are not exhaustible resources, and so without some form of legally recognized access rights, attempts to territorialize surf spots will likely only increase conflict rather than decrease it.

THE ETIQUETTE ALTERNATIVE TO LOCALISM

The difficulty of enforcing territories, along with the generally open-access nature of the seashore, has meant that surfers have been left to their own devices to try to reduce violence and conflict on the water. They have done so by developing a fairly simple, widely-agreed upon set of cultural norms and customs for regulating behavior. The surfer's code of etiquette is a widespread alternative to territorialism which is familiar to any surfer. For example, the surfer who takes off closest to the breaking edge of the wave earns the right to surf that wave. The cardinal sin of surf etiquette is to “drop in” on someone; that is, to take off or fall in ahead of them on a wave.

In other words, surfers have developed the notion of a fleeting property right (the surfer up first and closest to the breaking edge of the wave “owns” that wave as long as they are riding it) to go with a fleeting resource (a wave moving toward dissolution on the beach). Surfing norms that define *de facto* rights to valuable resources seem to be good examples of what Robert Sugden refers to as “spontaneous order” – rules and regulations that have evolved without conscious design (1989). These rules begin as established patterns of behavior, then evolve over time to become norms as people “come to believe that they *ought* to act in ways that maintain these patterns” (SUGDEN, 1989).

Despite the morality of the surfer's code espoused by many who follow it, Sugden argues that the simple expectation that others will follow the norm is the reason that it is perpetuated.

Sugden uses the example of collecting driftwood on a beach where the convention is that the first to arrive gets first pick of the wood that has washed ashore. Anyone who breaches this convention harms not only whoever was first, but everyone else who expects to be first some other day. There is no particular moral reason why the first person should get the wood, but the breach of expectation by itself is enough because it harms everyone else who follows that convention. This is borne out by some surf tour operators who take surfers to such remote places that crowding is not an issue. In some of these cases, the charter groups take turns catching waves rather than vying for the superior position needed to claim a wave (BUCKLEY, 2002b).

Surf etiquette has been remarkably successful at addressing the problem of overcrowding, but it remains an informal system, and there are signs of cracks in the veneer. An Australian gathering of legal scholars interested in surfing norms and self-regulation recently reported that although most surfers abide by informal rules, there is also a “growing public perception that the popularity of surfing and the overcrowding of famous surf breaks has led to a situation where risk of injury to others through aggression” is unacceptable (FITZGERALD and CLARKE, 2001).

Participants in this forum were all horrified at the prospect of surf police on jet skis or legislation that would forcibly ration access to the waves. But it may be coming in some areas anyway. Police in Palos Verdes have used jet skis to patrol the water. And at the Australian Forum, one surfer who is now a state supreme court justice there said, “We don't want to be tearing off numbers in the deli. But on the other hand, if people are going to commit acts of violence, the law is going to intervene” (FITZGERALD and CLARKE, 2001). Practically, the legally enforceable norm of free and open access to the shoreline is not going to change where it is already well established. But if, following SUGDEN (1989), surf etiquette does not have any real moral superiority to territoriality, then why not consider territoriality in places where access has yet to be developed?

TERRITORIES AND SURF TOURISM

Spurred on, perhaps, by the success of Tavarua, surf tourism is a rapidly growing industry around the world, especially in remote Pacific islands where there are few economic alternatives to tourism. Interestingly, some proponents of sustainable tourism have proposed a quota management system for tour operators to avoid crowding and encourage investment in remote locales (BUCKLEY, 2002b). Crowding is especially negative for surf tourism because crowd avoidance is one of the main motivators of surf travel.

One study of the potential for at least partial exclusivity to surfing locales looked at the case of the Mentawai Islands near Sumatra in Indonesia, and drew on parallels to whitewater rafting companies with exclusive permits to run tourists through the rapids of the Grand Canyon (BUCKLEY, 2002b). The Mentawais contain many isolated, undeveloped, prime surfing grounds. The situation is similar to a number of other locales in Indonesia where surfing grounds quickly became overcrowded and unappealing to all but budget travelers once they were developed for tourism. According to the author, the economic success of surf tourism in the Mentawais “depends on identifying maximum recreation capacity” (in other words, keeping the numbers of surfers low enough that no one feels crowded) and enforcing restrictions to meet that capacity (BUCKLEY, 2002b). Without these restrictions, few tour operators will be willing to invest in developing the Mentawais as a destination. So at least as far as sustainable tourism is concerned, exclusive access rights to surfing locales may be acceptable.

ARTIFICIAL SURFING REEFS

While many surfers have claimed that there are only a finite number of good surfing spots in any given region, some engineers are working toward creating new surf breaks by building artificial reefs which alter the bottom topography of the ocean to generate new or improved waves. Very few artificial surfing reefs have been built in the United States, although thousands of wave spots have been altered both for better and (primarily) for worse through various coastal development projects such as pipelines, jetties, harbors, and piers. This is illustrated by the first artificial surfing reef built in the United States, Pratte's Reef off of El Segundo, CA. Pratte's Reef was built in 2000 as mitigation in the first successful effort to hold coastal developers (in this case Chevron) responsible for degrading surf spots. The Surfrider Foundation was actively involved in the mitigation proceedings as well as the construction and monitoring of Pratte's Reef, successfully drawing attention to the affect of coastal development on nearshore wave structure.

Unfortunately, Pratte's Reef has underperformed as a wave shaper due to the steep learning curve involved in building such a reef (BORRERO and NELSON, 2003). A nearby sewage outfall, however, forms an unintentional break that is popular with local surfers who have named the break "shitpipe". Clearly, the quality of the waves overrides the "naturalness" of what lies beneath.

It seems clear that surfing reefs built under mitigation should be as free and open to surfers as natural waves are. But what when new surfing reefs are built absent mitigation?

One critic of the idea that artificial reef building will reduce crowding pressure from natural breaks simply pointed out that there was no reason to believe that building more reefs wouldn't simply attract more rude surfers (NEWMAN, 2000). But there also seems to be no reason to treat artificial surfing reefs in the same way as natural surfing breaks, especially if they are built for reasons other than mitigation. Why not look to what has effectively reduced overcrowding and conflict over valuable marine resources, including waves, in places like Fiji?

CONCLUSIONS

Surfing etiquette and localism are both attempts to assert some form of ownership over either waves or locales. Territorializing resources such as coral reefs in the South Pacific and offshore fisheries in places like New Zealand has proven to be an effective remedy to overfishing. Territorializing certain areas as a response to overcrowding waves, however, is generally reviled by the surf community. Closer inspection of this behavior, however, reveals that the Hawaiian originators of surfing were definitely territorial, and that one of the most successful surf resorts in the world, Tavarua, is able to offer an uncrowded surfing experience because of its legally enforceable exclusive access to prime surf breaks.

The key seems to be legal recognition. Without it, we get localism, which is rightly condemned for its occasionally violent side. But as new surfing spots are developed in both remote tourist sites and closer to home through artificial surfing reef creation, the effectiveness of legally enforceable access rights raises interesting policy questions about whether we might want to reconsider the bias against territorializing surfing spots.

If newly developing surf destinations in Indonesia will depend on some exclusivity of access to both encourage investment and preclude crowding, exclusive access rights to artificial surfing reefs would offer the same incentives to surf clubs or surf tourism ventures elsewhere. Seabed leases for aquaculture and oil and gas exploration are commonplace, so the legal

precedent is in clear. What is not clear is how the surfing community would react, and what, if any, new behavioral norms might develop among an uncrowded, privileged group of surfers (and what Marx might have to say about the role of class in all this!).

LITERATURE CITED

- ACHESON, J.M. 1987. The Lobster Fiefs Revisited. In: McCay, B. and Acheson, J.M. (eds) *Capturing the Commons*. Tucson, Arizona: University of Arizona Press, pp. 37-65.
- BARILOTTI, S. 2003. Localism Works. *Surfer Magazine*, May.
- BATSTONE, C. J., and SHARP, B. 1999. New Zealand's Quota Management System: the First Ten Years. *Marine Policy*, 23(2), 177-190.
- BERKES, F., FEENY, D., MCCAY, B. and ACHESON, J. 1990. The Tragedy of the Commons: Twenty Years Later. *Human Ecology* 18 (1), 1-19.
- BORRERO, J.C. and NELSON, C. 2003. Results of a comprehensive monitoring program at Pratte's Reef. Proceedings of the 3rd International Surfing Reef Symposium, Raglan, New Zealand, June 22-25, pp 83-98.
- BUCKLEY, R. 2002a. Surf Tourism and Sustainable Development in Indo-Pacific Islands: I. The Industry and the Islands. *Journal of Sustainable Tourism*, 10 (5), 405-424.
- BUCKLEY, R. 2002b. Surf Tourism and Sustainable Development in Indo-Pacific Islands: II. Recreational Capacity Management and Case Study. *Journal of Sustainable Tourism*, 10 (5), 425-442.
- CHRISTY, F. and SCOTT, A. 1965. *The Common Wealth in Ocean Fisheries*. Baltimore, MD: The Johns Hopkins Press.
- CORDELL, J. 1989. *A Sea of Small Boats*, Cambridge, MA: Cultural Survival, Inc.
- DIXON, P. 2001. *The Complete Guide to Surfing*. Guilford, CN: The Lyons Press.
- GATHRIGHT, A. 2002. Surge in surfers, surf rage. *San Francisco Chronicle*, June 2.
- FITZGERALD, B. and CLARKE, G. 2001. Law of the Surf Forum. *Southern Cross University Law Review*, 5, 228-61.
- GROTIUS, H. 1609. *The Freedom of the Seas*. Translated by Ralph Deman Magoffin. New York: Oxford University Press, 1916.
- HARDIN, G. 1968. The Tragedy of the Commons. *Science*, 162, 1,243-48.
- HELLER, G. 2000. Surfing A-Z: The Ranch. *surflines.com* November. Downloaded 12/15/04 from http://www.surflines.com/surfaz/the_ranch.cfm
- JOHANNES, R.E. 1978. Traditional Marine Conservation Methods in Oceania and their Demise. *Annual Review of Ecology and Systematics*, 9, 349-64.
- JOHANNES, R.E. 2002. The Renaissance of Community-Based Marine Resource Management in Oceania. *Annual Review of Ecology and Systematics*, 33, 317-40.
- NATIONAL MARINE FISHERIES SERVICE (NMFS). 1999. *Our Living Oceans. Report on the status of U.S. living marine resources, 1999*. U.S. Dep. Commer., NOAA Tech. Memo. NMFS-F/SPO-41.
- NEWMAN, A. 2000. The Way We Live Now: Salient Facts: Surf Rage; Rule of the Waves. *The New York Times*, December 17.
- SUGDEN, R. 1989. Spontaneous Order. *Journal of Economic Perspectives*. 3 (4), 85-97.

SURFLINE 2004. Travel: US: Central California: The Ranch. *surflines.com* Downloaded 12/15/04 from http://www.surflines.com/travel/surfmaps/us/central_california/the_ranch.cfm

SURFRIDER FOUNDATION nd. Surfrider Foundation Mission and Principles. Downloaded 12/15/04 from <http://www.surfrider.org/mission.asp>

WEISS, R. 2002. Too Many Surfers and Too Few Waves. *Los Angeles Times*, February 24.