

CHAPTER 6

FISHERIES GOVERNANCE, SOCIAL JUSTICE AND PARTICIPATORY DECISION-MAKING

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Abstract

Controversies over distribution of access rights are a distinctive feature of fisheries management. Who should be the beneficiaries and what are the relevant criteria for awarding such benefits? We find it rather surprising that principled fisheries management debates on social justice are so rare. We are equally perplexed that so little attention is paid to issues of justice within social science fisheries research. In this article we try to remedy this, first by outlining some of the arguments in the justice literature to demonstrate their relevance for fisheries governance. Second, the establishment of a particular allocative mechanism – the so-called quota ladders – in Norwegian fisheries is used as an example of how different conceptions of justice can be applied in concrete management settings. We argue that much would be gained if a principled debate among involved stakeholders occurred prior to the actual allocation process; that is if stakeholders would agree on some general rules with regard to what constitute socially just distribution of access rights. In fact, we believe that the issue of participatory decision-making through devolvement of authority and responsibility to stakeholder groups, which is now on the agenda in many countries, would be much easier to realise if a social contract for just fisheries were established at the root.

6.1 Introduction

The politics of fisheries management is particularly zealous on the issue of the distribution of access rights. The reason for this is fairly obvious: with individual livelihoods and the survival of local communities at stake, distribution raises fundamental issues of social justice and fairness. The question, then, of what constitutes a just management regime, and what criteria are relevant for assessing its fairness, becomes pertinent. While this is basically a philosophical question, it can also be approached empirically – starting with questions such as: What principles of social justice do user-groups apply when they claim rights of access to fish resources? What justice principles do governments refer to when they defend their management policies?

Given the pertinence of such questions, we find it quite remarkable, one may say paradoxical, that the debate within political theory, spurred by John Rawls' seminal treatise 'A Theory of Justice' (1972), has attracted so little attention among students of fisheries management. With a few exceptions, such as Gray (1998), little has been written on the normative issues pertaining to fisheries governance. Rawls targeted his contribution at a philosophical audience, but his book also revitalised modern political theory and made quite an impact in the social sciences. For the last ten years or so social

justice has become an important theme in environmental politics (Schlosberg 2003), rubbing off on the fisheries management discourse (Hernes and Mikalsen 2002).

We believe that fisheries management would benefit from a more principled debate on social justice standards and from what Rawls and other philosophers and social theorists have written on this issue. Fisheries management cannot be reduced to a technical exercise that should only be seen from a means-end perspective. As any other social practice, fisheries management must be subject to moral scrutiny. Good governance, in fisheries as well as in other sectors, should start from a reasoned contemplation on some fundamental principles of justice. From a decision-making perspective moreover, the key issue in determining what principle(s) of social justice that should be implemented in fisheries governance is the procedural problem of involving all stakeholders in the process. Any management regime that fails in this regard will have a justice 'deficit'. In this sense, we consider democracy a key ingredient in the lexicon of social justice.

In this paper we make an attempt at applying principles of social justice to fisheries management - using a fairly unique allocation scheme in Norwegian fisheries, the so-called 'quota ladder', as a case in point. The ladder originated in 1989 from within the Norwegian Fishers' Association as a response to the distributional difficulties brought on by the Barents Sea cod crisis. The crisis spurred a debate among fishers on how to share the Total Allowable Catch (TAC) between different sections of the fleet. This eventually led to a (albeit fragile) consensus; a 'social contract'-like agreement on a fundamental and contentious issue - thus avoiding a potential split within the association.¹ Since then, the ladder has been both refined and extended to incorporate other fish stocks than cod. As a 'social contract' - establishing long-term commitments to certain principles and 'rules' for the parties involved - the ladder has reduced the level of conflict and dispute among user-groups by bringing some interactive order into the decision-making process. In condoning this scheme, the government, for its part, has relieved itself of a highly controversial task. From a co-management perspective, this is significant because without the contract implied by the ladder, the government would not have been able to delegate decision-making power on such a socially important issue to the fishers. Agreement on fundamental principles of allocation is thus conducive to participatory decision-making. The key question, though, is whether the 'contract' holds from a justice perspective.

We start by depicting some of the main theoretical positions on social justice and how they may apply to fisheries. Then we summarise the idea, substance and effects of the Norwegian fisheries quota ladder, and the political turmoil surrounding its creation and design. Thereafter, we 'challenge' the ladder from a justice perspective. Did it come about through a democratic process? What are the normative principles underpinning it? How consistent are they? Finally, our concern is with the lessons for fisheries governance that can be drawn from this Norwegian experience. More specifically, we raise the issue of whether 'social contracts' of this type can work as a management

¹ The essence of this 'scheme' is that the relative share of the two basic segments of the fleet (offshore and inshore) should vary by the size of the Norwegian TAC. In its original version, the ladder - as an example - implied that with a Norwegian TAC of up to 150,000 tonnes, the shares of offshore and in-shore were 25 and 75 per cent respectively. With a Norwegian TAC of 300,000 or more, these shares were set to 35 and 65 per cent.