



Notions of justice held by stakeholders of the Newfoundland fishery



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ABSTRACT

Justice is an important and contested issue in the governance of fish stocks threatened by over-exploitation. This study identifies the notions of justice held by stakeholders of the fishery in Newfoundland, Canada, using qualitative interviews, and interprets these notions in light of established justice theories. The interviews are analysed using inductive and deductive coding. A central result is that inshore fishers are seen as the main claim holders, with a claim to participate and be listened to, and the opportunity to make a living from the fishery. Moreover, rules play an important role in the justice notions of the interview partners, and their justice notions are clearly plural. The stakeholder notions of justice in the Newfoundland fishery resonate with the emphasis on recognition, participation and distribution as important aspects of justice within the environmental justice approach [59–61] (Schlosberg 2004, 2007, 2013).

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1. Introduction

Justice is an important and contested issue in the governance of fish stocks threatened by overexploitation [11,25]. Fisheries allow humans access to provisioning ecosystem services (such as food) from the oceans. Fisheries are often also seen as a way of life, providing cultural services (e.g., [8,20]). Justice is particularly relevant in contexts where scarcity plays a large role. The oceans, long regarded as virtually limitless [9], provide a drastic example of how ecosystem goods and services may become scarce, through a combination of ecological factors and human overuse leading to fundamental changes in the ecosystem.

One of the most famous changes in marine ecosystems is the collapse of the Atlantic cod (*Gadus morhua*) fishery stocks near Newfoundland, Canada [42]. The abundance of cod in the waters around Newfoundland was the principle motive for the European settlement beginning in the 16th century ([20]: 4, [27]: 198). As a result of overexploitation and mismanagement, the cod stocks collapsed in 1992 [72]. An official moratorium on cod fishing was issued, with drastic consequences along the entire fish chain, from small-scale fishers and coastal communities to the processing and

retail sectors, and more generally for Newfoundland's economy, labour market, and population, which still continues today ([36]: 89, [6]: 10).¹ Decreasing fish levels lead to fewer employment opportunities in the fish processing industry,² resulting in higher demand for social services such as unemployment insurance, and to higher out-migration. This raises fundamental questions about justice and fairness ([6]: 10).³ Perceptions of justice are also crucial for the acceptance of decisions [29].

Because the concept of justice is contested, however, the notions of what is “just” usually differ between people. To understand the justice problems in the Newfoundland fishery, and to arrive at acceptable public policies regarding the fishery, therefore requires a thorough analysis. The aim of this study is to identify the notions of justice held by stakeholders of the Newfoundland fishery, and to interpret these notions in the light of established justice theories such as the environmental justice approach [59–61].

This study is connected to two interrelated strands of literature. First, it relates to social science research on (justice in) the

¹ Background information on the fishery regulations in Newfoundland and the explanation of central terms such as quota and licences can be found in the glossary.

² Newfoundland has the highest unemployment rate of all Canadian provinces (12.5% in 2012: [69]). On average, 3.3% of the population of Newfoundland were employed in fish harvesting and processing in 2012 [70,71].

³ Being aware of the differences and connotations of the terms, in this study “justice” and “fairness” are used as roughly synonymous.

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Table 1
Conceptual structure of justice.

Conceptual element of justice	Explanation
Community of justice	Who is included in the justice consideration? The community of justice [16] can be distinguished into two roles: The <i>claim holders</i> (the ones who hold particular claims) and the <i>claim addressees</i> (the ones responsible for the fulfilment of those claims).
Claims	What are the legitimate claims that are held by the claim holders? Claims are considered legitimate if they are assigned to community members based on an accepted ground of justice [56]. Claims are central to the concept of justice ([52]: 47).
Judicandum	Who or what is judged to be just or unjust? There are four main categories of <i>judicanda</i> ([54]: 863): (i) individual or collective actors, (ii) actions or omissions of such actors, (iii) social rules, i.e. laws, institutions, conventions, (iv) states of affairs or events. A <i>judicandum</i> can be assessed in terms of outcome, or in terms of process.
Informational base	What is the right evaluative currency to use in the assessment of the justice of a <i>judicandum</i> ? <i>Informational bases</i> ([64]: 111) may e.g. be utility, capabilities, or income.
Principles of justice	Which principles should guide the distribution of claims and obligations? [74] distinguishes three broad principles of justice: equality (or parity), proportionality, and priority, which might need to be further specified (e.g. proportionality according to desert or need). Additionally, the principle of sufficiency refers to a situation in which everyone has enough of some good without necessarily involving a comparison to what others have ([22]: 22).
Instruments of justice	Which instruments should be used to satisfy the legitimate claims of the claim holders [1]? This can <i>inter alia</i> refer to (re)distribution of certain goods, such as income or primary goods, but also to institutional reform, or other ways of fulfilling legitimate claims.

governance and management of fish stocks ([18,20,26,27,31-34,36,38,39,62, 67,68,72], [11] and contributions therein, [25] and contributions therein). Second, it relates to empirical justice research in general [45], which uses, *inter alia*, quantitative surveys [3,35,58], choice experiments [7,12], and qualitative interviews [30].

To date, little attention has been paid to issues of justice within social science fisheries research [29]. However, “fisheries management would benefit from a more principled debate on social justice” ([29]: 104), and an exploration of which issues of justice play a role. To address this research gap, this study uses qualitative, semi-structured in-depth interviews with 21 stakeholders of the Newfoundland fishery to explore the field in a manner that allows for new and unexpected issues and concerns of justice to come up. A combination of inductive and deductive coding is used, and the results are structured according to key conceptual elements of justice [73]. The results are discussed with regard to the literature and related to justice theories, especially the environmental justice approach [59–61].

2. Philosophical foundation: Justice

Essentially, justice relates to the owed, demandable claims (or rights) and the corresponding obligations within a community of justice from a standpoint of impartiality and equal consideration. While this core of the concept is relatively uncontested, different conceptions (i.e. concretizations) of the concept vary along different dimensions.⁴ Therefore, to fully describe a specific conception of justice, several elements have to be specified: community of justice, claims, *judicandum*, informational base, principles of justice, and instruments of justice [73]. These elements can be summarized in a basic conceptual structure of justice (see Table 1).

Different conceptions of justice specify these conceptual elements in different ways. Of particular relevance in the environmental realm is the environmental justice approach [59–61], as an approach that reflects the justice demands made by theorists and activists with regard to environmental issues. Schlosberg [59] emphasizes the need to consider issues of recognition alongside distributional and procedural aspects of justice. He argues that environmental justice requires the recognition of the diversity of participants and experiences in the affected communities and their different value systems. “Recognition” as a category of justice emphasizes the claim of marginalized groups (as claim holders) for “a ‘place at the table’ and the right to ‘speak for ourselves’”

([59]: 522). Activists call for “policy-making procedures that encourage active community participation, institutionalise public participation, recognise community knowledge, and utilise cross-cultural formats and exchanges to enable the participation of as much diversity as exists in a community” ([59]: 522) as instruments of justice. Policy-making procedures are seen as a *judicandum*, and those responsible for these processes as claim addressees (e.g., the government level). Assessing justice in terms of recognition requires assessing whether all groups are equally heard and recognized.

The environmental justice approach is linked to another important school of thought moving beyond a merely distributional focus, namely the capability approach [48,49,65,66], which argues that “capabilities” are the adequate informational base for the justice assessment. “Capabilities” are defined as the vector of all “functionings”, i.e. constitutive elements of human existence, including “such elementary things as being adequately nourished, being in good health, avoiding escapable morbidity and premature mortality, etc., to more complex achievements such as being happy, having self-respect, taking part in the life of the community” ([65]: 39). What matters is the freedom to choose between different ways of achieving such functionings [64]. All claim holders, in this view, have a claim to certain substantial freedoms, following a principle of equality (Sen) or sufficiency (Nussbaum) (see [53]). Having a certain capability set not only requires access to resources, but also to more broadly defined “conversion factors” (such as personal characteristics, social infrastructures, and environmental factors, [57]), participation in political decisions, and social and political recognition [60]. Instruments of justice should therefore ensure the best possible provision (distribution) of these resources and conversion factors, enable participation, and ensure recognition.

The environmental justice approach differs from most liberal justice theories, such as the one by Rawls [55], in its emphasis on recognition and voice as a claim of marginalized groups. According to Schlosberg [59], recognition is under theorised and merely assumed in liberal theories of justice. So, while the *judicandum* of Rawls’ [55] *Theory of Justice* is the basic structure of society as it would be agreed upon behind a *hypothetical* veil of ignorance, the environmental justice approach insists to look at *actual* injustices that occur in the “real world, including inequitable distributions, a lack of recognition, limited participation, or a lack of capabilities.”

The environmental justice approach is clearly pluralistic, pointing to different domains of justice such as recognition, distribution and participation and their associated principles and informational bases. It therefore differs from other approaches that focus on one principle and one informational base only, as, for

⁴ For the concept-conception distinction, see Gallie [24], Rawls [55].

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