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RESOURCE REGIMES: FISHERIES MANAGEMENT IN NORTH NORWAY AND NOVA SCOTIA

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In this brief essay, I will consider a number of sociolegal questions which are central to a comparative project I am beginning on the future of small-scale fisheries and rural communities in Nova Scotia and North Norway.¹

Institutional Resistance and Openness to Change

We have a considerable amount of information on fishers' attitudes towards fisheries management in Nova Scotia that clearly demonstrates the existence of a comparatively high level of political alienation among Canadian fishers and plant workers. Small and intermediate-scale processors in Nova Scotia are hostile to what they regard as government intervention in the marketing system, but their protests have been muted both by their fear of the large processors and by the competition that exists among many of them for the loyalties of fishers. In turn, Nova Scotia fishers are alienated from the current administrative regime; however, this unhappiness does not find clear expression because of the internal class differentiation among the fishers and the strong commitment many fishers have to individualistically-oriented small business ideologies. Finally, plant workers in Nova Scotia are like other employees in marginal economic enterprises – both politically alienated and apathetic about the prospects for change. This combination tends to generate support for patronage-based solutions to community problems.²

With regards to management, we have a number of historical accounts and case studies of the administrative structure of the Atlantic Canadian fishery. Recent studies by Bannister³ and Phyne⁴ demonstrate that the centralizing tendencies in fisheries management remain strong. Bannister shows how

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¹"Riding Out the Storm: Sustainable Development and Fishery Dependent Economies." The project is funded by the MacArthur Foundation from 1992 to 1995, and involves fisheries social scientists from Canada, Norway, and the United States.

²R. Apostle and G. Barrett, *Emptying Their Nets: Small Capital and Rural Industrialization in the Fishing Industry of Nova Scotia* (Toronto: University of Toronto Press, 1992) c. 14.

³R. Bannister, "Orthodoxy and the Theory of Fishery Management: The Policy and Practice of Fishery Theory Past and Present" M.A. Thesis, St. Mary's University (Halifax: Atlantic Canada Studies, 1989).

⁴J. Phyne, "Dispute Settlement in the Newfoundland Inshore Fishery: A Study of Fishery Officers' Responses to Gear Conflict in Inshore Fishing Communities" (1990) 3 *Maritime Anthropological Studies* 88.

managerial ideologies in the fishing industry continue to be based on a commitment to industrial organization. Although the bioeconomic model underwriting this strategy has been modified by some economic welfare concerns, the fundamental commitments to limited entry licensing, as well as to quotas and enterprise allocations, continue to generate a number of irreducible problems for fisheries management in Atlantic Canada. Limited entry licensing has failed to control overcapacity or restrict overfishing. It has also reinforced inequality and conflict among different fleets, and has done little to moderate the impact of biological and economic instability in the industry. Further, the system of quota and enterprise allocations has had the perverse effect of increasing illegal fishing, dumping and the under-reporting of catches.

Closer to the front lines, Phyne's study of Newfoundland fisheries officers indicates there is a shift in enforcement from more informal, community-based compliance to more formal deterrence procedures.⁵ This modification has been paralleled by an increasing bureaucratization of fishery officers' roles.

There are three major explanatory perspectives, two Marxist and one liberal, that are currently employed to frame the questions of institutional resistance and openness to change. The structural Marxist position concerning the importance of the state in Canadian fishing activities is described in Marchak's argument about common property as state property.⁶ Marchak proposes that the expansion of state managerial functions in the Canadian fishery, as well as state involvement in the definition of access rights, means that resource rights in the fishery have been transformed into crown rather than common property. Marchak extends this argument in several important ways. First, she argues that the state does not act in an instrumental way to favour particular property owners or to facilitate the economic growth of specific groups. Rather, the state administers "the system of property rights, rather than the specific property holders at any one time, and the *system of accumulation*, rather than the accumulated wealth of any one group."⁷ Marchak also indicates that both Canada's federal and provincial governments have tended to favour more powerful interests in drafting legislation. Further, the long term decline of fishery activity in the Canadian economy means that the fishery ministry has gradually lost influence in the federal Cabinet. As a consequence, fishery policy tends to vary in unpredictable ways because other interests receive more systematic primary attention.

In general, this structuralist analysis works quite well for the British Columbia

⁵*Ibid.*

⁶P. Marchak, N. Guppy and J. McMullan, *Uncommon Property: The Fishing and Fish Processing Industries in British Columbia* (Toronto: Methuen, 1987).

⁷*Ibid.*

situation because the relatively brief history of its fishery has been dominated by industrial capitalism. However, the difficulties with the approach are two-fold. First, there is not sufficient recognition of fishers as independent commodity producers who do not easily accept definitions of themselves as workers. Second, the focus on state activity in creating independent commodity-producers who have the function of protecting large-scale capital from risk-taking does not fully appreciate the desire of independent commodity producers to maintain their activities, as well, perhaps, as a way of life.

Pross and McCorquodale provide a pluralist alternative in their analysis of Canadian fisheries politics.⁸ Their case study of the constitutional debate about the Atlantic Canadian fishery during the late 1970s develops an intellectual framework about policy communities which is most closely aligned with theories of democratic elitism. From this perspective one can identify policy-making worlds which are typically constructed along functional or sectoral lines. In the Atlantic Canadian case, the policy community consists of the Federal Department of Fisheries and Oceans (DFO), provincial fisheries departments, the Fisheries Council of Canada, the largest five processors (National Sea Products, H.B. Nickerson, B.C. Packers/Connors Brothers, Fisheries Products, and the Lake Group) as well as the Newfoundland Fishermen, Food and Allied Workers Union (NFFAWU), the co-operatives (particularly the United Maritime Fishermen's Cooperative, known as the UMF), and members of Parliament. Other unions or fishers' organization are regarded as "members of the attentive public," along with a few east coast academics.⁹ DFO, by virtue of its relatively large budget, is by far the most important public agency in the policy community.

With this framework, Pross and McCorquodale show how the Canadian state acted to promote the reorganization of large scale processing facilities in Atlantic Canada to cope with the financial crisis which faced the industry at that time. However, Pross and McCorquodale are careful to distinguish the Newfoundland situation, which resulted in direct state ownership of the largest fish processing company, from that in Nova Scotia where the federal government permitted the biggest corporate entity to remain in private hands. Pross and McCorquodale would probably agree with the west coast analysts that fisheries policy was only a minor blip on the Canadian constitutional horizon. However, they also argue that the reorganization, in both instances, involved a shift from the market economy into what Galbraith has labelled the planning system. The two provincial solutions, one private and one public, both imply that fisheries management has been absorbed into a Galbraithian techno-structure in which there is "a level of expertise concerned with long-term corporate planning, research and development

⁸P. Pross and S. McCorquodale, *Economic Resurgence and the Constitutional Agenda: the Case of the East Coast Fisheries* (Kingston: Institute of Intergovernmental Relations, Queen's University, 1987).

⁹*Ibid.* at 80-82.

relations with government, and a host of related issues.”¹⁰

Although neo-Marxists would feel uneasy about the variegated collection of interest groups recognized by this kind of analysis, it does have the advantage of giving clear recognition to the policy significance of coastal community influence in political solutions, and the difficulty these communities, particularly in Nova Scotia, have in articulating their political wishes.¹¹

Sinclair provides a third viewpoint on the role of the state in the Canadian fisheries.¹² He picks up the themes in class conflict versions of Marxism to develop an interpretation of the same crisis Pross and McCorquodale investigated. By contrast to Pross and McCorquodale, Sinclair begins with a neo-Marxist set of class categories which he supplements with an acknowledgement of state interests in “maintaining social stability, public support and their personal careers,” as well as their considerable resources, including “legitimacy (in liberal democratic systems), force, control of information and the capacity to influence public attitudes.”¹³ In empirical terms, Sinclair’s characterization of the crisis and the ultimate resolution does not differ markedly from that of Pross and McCorquodale. However, the particular understanding he draws from this case, aside from recognizing the autonomous activities of the federal and Newfoundland governments, is that:

... the intervention of the federal government was not simply a reflection of the superior policy influence of finance capital compared with fish processing corporations. Politicians also had an interest in resolving the problem before total economic and social collapse occurred in large areas dependent on the fisheries.¹⁴

Comparative Dimensions¹⁵

Given the differences in the theoretical frameworks and empirical circumstances in these three Canadian case studies, it is virtually impossible to make any clear-cut choices among them. The way out of this difficulty is to resort to comparative

¹⁰*Ibid.* at 114.

¹¹*Ibid.* at 14-15 and 76-79.

¹²P. Sinclair, “The State Goes Fishing: the Emergence of Public Ownership in the Newfoundland Fishery” paper presented at the annual meeting of the Atlantic Association of Sociologists and Anthropologists (Fredericton: University of New Brunswick, 1984).

¹³*Ibid.* at 9.

¹⁴*Ibid.* at 35.

¹⁵This section is adapted from R. Apostle and S. Jentoft, “Nova Scotia and North Norway Fisheries: The Future of Small-Scale Processors” (1991) 15 *Marine Policy* at 100-110.

analysis.¹⁶

At this point, we know that Norwegian fishers and processors have been, and continue to be, more effective political actors at both regional and national levels than are Nova Scotia fishers. Beginning with the 1938 *Raw-Fish Act*, Norwegian fishers imposed a series of agreements on their industry which ensure broad control of sales and pricing. Norwegian fishers decide who will be permitted to buy fish and establish conditions that ensure fairly stable prices for their fish. They have maintained a strong influence on fisheries matters through their own national association, as well as through sales organizations. For example, the Norwegian Fisherman's Association bargains on behalf of the entire fishing industry for state subsidies to the industry. Further, established small-scale fisheries interests have been reasonably successful in channelling the introduction of aquaculture enterprises to complement or replace their more traditional activities. By contrast, Nova Scotia fishers are poorly organized, and have relatively weak representation in bureaucratic decision-making processes or the political arena proper. In the same way, aquaculture is being introduced into Nova Scotia in a relatively unplanned way, with the prospect that it will ultimately be controlled by large-scale processors.

Such political differences spill over into contrasting trajectories for community development. In North Norway, there have been systematic efforts, particularly since the 1970s, to preserve smaller communities, albeit with a newer and more modern mix of economic activities. By comparison, Nova Scotia is still at a point which North Norway passed between 20 and 40 years ago, one in which market forces are permitted to determine which communities will survive, and in which social stratification is heightened in the surviving communities.

These political differences are primarily attributable to two major factors. First, Norway has a pre-existing system of group representation which Hallenstvedt has called "segmented corporatism."¹⁷ The very large number of publicly recognized organizations in other sectors of the Norwegian economy and society made organized fisheries representation desirable for the political system, as well as for the fishers. Second, the fishery has been, and continues to be, more important to the Norwegian economy than the Canadian fishery is for Canada. This is especially true in regard to the proportions of total export value for which the Norwegian fishery accounts.

¹⁶Examples of this approach are found in *Special Issue: Comparative Political Economy* (1989) 26:1 *Can. Rev. of Sociology and Anthropology*, and C. Ragin, *The Comparative Method: Moving Beyond Qualitative and Quantitative Strategies* (Berkeley: U. of California Press, 1987).

¹⁷A. Hallenstvedt, "Government and Organization: A Case of the Norwegian Fisheries" in D. MacInnes, S. Jentoft and A. Davis, eds, *Social Research and Public Policy Formation in the Fisheries: Norwegian and Canadian Experiences* (Halifax, Oceans Institute of Canada, 1991).

Law as a Medium

In the broadest sense, law may be regarded as a conduit for change to the extent that it provides sources of legitimacy for fisheries management regimes. At one level, there is a longstanding distinction between state-generated sources of regulation in the Atlantic Canada fisheries, as opposed to community-based ones. An alternate way of looking at this problem which may provide a way of thinking about integrating different levels of legitimacy comes from Ostrom's work on common-pool resources.¹⁸ She distinguishes amongst "operational rules," "collective-choice rules" and "constitutional-choice rules."

Operational rules refer to regulations concerning appropriate monitoring and enforcement on a day to day level, whereas collective-choice rules have to do with more general problems of management and adjudication of lower-level operational guidelines. Both types of rules are ones which rural communities in Nova Scotia and North Norway have regarded, at some points in their history, as being created at the community level. Constitutional-choice rules, which have to do with the foundations for collective-choice rules and eligibility for involvement in constitutional procedures, are usually associated with broader political processes and state activities which reside outside particular communities. It is the relations amongst these different levels of regulation which are the core of the legal debate about the administration of Atlantic Canada fisheries. Since we are just beginning our work, we have a lot more questions than answers. However, this is probably as it should be in an academic endeavour which is trying to introduce comparative dimensions to a field of work which currently lacks them.

Regional Dimensions

There is a longstanding debate in Canadian social science regarding the significance of regional considerations for an understanding of economic, political and cultural differences in Canada. In particular, there has been a scholarly debate about the relative importance of regional as opposed to class factors in the explanation of inter-provincial variations in political attitudes and behaviour. On the one hand, sociologists and political scientists like Elkins, House, Matthews and Simeon have maintained that there are important regional differences which make it necessary to distinguish amongst a number of different provincial or regional cultures.¹⁹ The standard way in which these differences are operationalized in Canadian social science involves classifying Canada into at least five distinct areas: Atlantic Canada, Quebec, Ontario, the Prairies and British Columbia.

¹⁸E. Ostrom, *Governing the Commons: The Evolution of Institutions for Collective Action* (New York: Cambridge University Press, 1991) at 52.

¹⁹R. Brym, ed., *Regionalism in Canada* (Toronto: Irwin, 1986).

There are others who would perceive even more finely grained contrasts within these categories which might require separating, for example, Newfoundland from the Maritimes, or even treating the four Atlantic Canadian provinces individually. On the other hand, there is a more radical perspective, originating in the work of Brym, Marchak and Ornstein, which maintains that these apparent regional differences are in fact better understood in terms of class differences. For example, Ornstein and his colleagues propose that most regional contrasts in political attitudes and behaviour reduce to a simple distinction between Quebec and the rest of the country, and that major ideological questions are more clearly rooted in class than in regional concerns.

This debate has definite implications for our area of investigation, because there is a rather intriguing mixture of regional and class elements which affects the question of resource regimes in North Norway and Nova Scotia. I would prefer to address the question of the uniqueness of Atlantic Canada by suggesting that, while we share some complex class configurations which emanate from the advanced capitalist economies of the west, we must also take account of the commonalities we share with marginal regions on the periphery of core powers in Western Europe and North America. There are well established intellectual and academic groups now considering the common fate of such regions, and their work will be influential in helping to understand the specific regional dimensions of our problems.²⁰

²⁰See, for example, the biennial *Marginal Regions Seminar*, Maritime Anthropological Studies [MAST].

