

Fisheries property rights

The litmus test

It should be demonstrated that a property-rights regime will increase the welfare of those most in need

Recently property rights have been heralded as *the* solution to the ‘fisheries problem’ (that is, overfishing)—by economists at a conference in Australia (see article by Derek Johnson, “Who’s sharing the fish?”, SAMUDRA Report No. 43, March 2006) and by leading institutions such as the Food and Agriculture Organization of the United Nations (FAO) (see piece by Ichiro Nomura, “No one-size-fits-all approach”, SAMUDRA Report No. 44, July 2006). That comes as no surprise. It is old news. The puzzle worth pondering, however, is this: If property rights are such a blessing to fisheries as alleged, why are they so often received with animosity within the fishing population? Let me suggest the following possibilities:

The reason could be that people do not get the message; it is either incomprehensible or they are not yet ready for it. They may not see the problem for which property rights are held to be the solution. Thus, what is needed is more effective communication to make people understand the significance of the message and feel better about it.

Maybe it is not property rights *per se* that people find so problematic, but the particular kind of property rights that is promulgated. To proclaim that property rights “are absolutely necessary and fundamental to the sustainability of the world’s fisheries resources” (Nomura) does not say much unless one is willing to specify what type of property rights one is talking about: private property, common property, community property, State property, corporate property, etc.—which all come in various forms and have different implications. Therefore, if the argument had been more nuanced and people were offered a set of alternative property-rights solutions that

they could relate to, they might be more supportive.

But perhaps the problem lies elsewhere. People may both understand the message and see its merits, and yet oppose it because they see it as threatening to their livelihoods and ways of life. For people living under an open-access regime, the property-rights concept is often perceived as an alien and inappropriate concept: “How can somebody acquire privileged ownership of a resource that was free for all to share?” If that is the case, a more cautious presentation that does not ignore people’s unease might do the job.

Still another explanation for people’s defiance may be that property rights do not offer any solution to what people perceive as their most important and urgent problems: “Whatever the problem property rights are supposed to solve, my problem is another one.” If you, for instance, struggle to feed your family on a daily basis, a property-rights regime might not figure high on your priority list.

I can think of yet another reason, which is perhaps the most likely one, why many fishing people show resistance to the property-rights systems favoured by economists: They have already suffered their consequences. They, in contrast to academics, fisheries managers and others who believe so strongly in property rights, know how it feels to lose access to the resource.

Standard definition

But in order to understand what the problem is really all about, we need to dig even deeper and ask what property rights are in the first place. Here is a standard definition: The essential thing about a property right is not the relationship it establishes between a person who is the

owner and the item that is owned but the relationship it forms between people: the haves and the have-nots. Thus, property rights are a social relationship, and any change in property rights is intervening into existing social relations by differentiating categories of people.

As someone benefits from acquiring a property right, others necessarily lose, because the owner is in a rightful position to exclude others from enjoying the stream of benefits from the thing that is owned. Thus, property rights are inherently inequitable, and this problem does not go away if you simply ignore it as Derek Johnson found was happening at the *Sharing the Fish 2006 Conference*. Neither can the equity issue be postponed until after property rights are introduced, as it will typically pop up long before you try to implement them, because people can anticipate their social and economic impacts.

It is not for nothing that social scientists have long been concerned with the empowering and disempowering effects of property rights. The famous French anarchist and philosopher Pierre-Joseph Proudhon captured the quintessence of this problem in his 1840 treatise *What is Property? Or, an Inquiry into the Principle of Right and Government* through his oft-quoted statement, “Property is theft!” Fishing rights are often opposed by

similar language. That is perhaps going too far since property rights can mean many things, and also serve good purposes. As Bjørn Hersoug argues in his commentary on both Johnson and Nomura (“Opening the tragedy”, *SAMUDRA Report No. 45*, November 2006, pg. 3), we, therefore, need to ask if fishing rights are used to empower the right people. Consequently, one should not be dogmatic about property rights, as they come with potentials as well as risks. Property rights can lead to more inequity but they can also be employed for correcting inequities, as they can be used as a mechanism to protect those in need of protection, that is, the marginalized and impoverished among fishers. This is unfortunately not what those who most eagerly sponsor property rights, such as individual transferable quotas (ITQs), have in mind.

I suggest, therefore, that before we embrace any particular property-rights regime, it should be litmus-tested against the ‘difference principle’ established by John Rawls—perhaps the most important philosopher of the 20th century—in his 1971 work, *Theory of Justice*: “Social and economic inequalities should be arranged so that they are to the greatest benefit of the least advantaged persons.”

Specific situation

Thus, unless it can be demonstrated—not only in theory but also in practice, and not



only on average but for the specific situations in which fishing people find themselves—that a particular property-rights regime will increase the welfare of those most in need, we all have legitimate reasons to remain sceptical, whatever the economists and FAO might say. ♣

This piece is by Svein Jentoft (Svein.Jentoft@nfh.uit.no) of the Norwegian College of Fishery Science, University of Tromsø, Norway