Developing a Social Justice Framework For NRM Decision Makers

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Objectives

• Introduction
  - Why bother with social justice?
  - What is it, exactly?

• My PhD as a starting point for this research journey
  - Research design

• The Social Justice Framework
  - The SJF
  - SJF principles in detail
  - Some results from MDB water reform
  - Insights from MDB water reform

• What still needs work

• Next steps
Why bother with justice?
What is social justice?

- Social justice ≠ you get what you want
- How resources are distributed within a society – and how these decisions are made!
  - Distributive justice – outcomes
  - Procedural justice – fair process effect
  - Interactive justice – dignity & standing
- ‘Justice lies in the eyes of the beholder’
  - Depends on morals/values → can change over time and between cultures
- Justice needs context!
- Issues of:
  - Time inter-generational justice versus intra-generational justice
  - Scale what is fair at the local level may not be fair in the region
  - Inclusion ‘Moral Community’ - justice owed to those inside the community
My PhD in a nutshell

Social justice in the MDB water reform process

National Policies

Intention

Interstate Agreements

State Legislation

Implementation

Lowbidgee Floodplain

NSW

Chowilla Floodplain

SA

Local Outcomes for

Perceptions

Environment

Landholders

Aboriginal people
# Research Design

## Content Analysis
1994-2008

### 8 key water reform documents analysed:
- Commonwealth Policies
  - NPWS 2007
  - WftF 2008
- Commonwealth Legislation
  - Water Act 2007
- Intergovernmental Agreements
  - COAG 1994
  - NWI 2004
  - MDBA 2008
- State Legislation
  - NSW MWA 2000
  - SA NRM 2004

### Quantification of social justice-related principles (~30)

\[
\text{Frequency} \times \text{Weighting} = \text{Relative Importance Score}
\]

## Semi-Structured Interviews
Dec 2008- May 2010

### 61 interviews with representatives from:
- All levels of government
  - Commonwealth: 6
  - Basin agencies: 5
  - State: 12
  - Local: 4
- Non-government
  - Landholders / Irrigators / Locals: 17
  - Aboriginal elders: 11
  - Scientists: 4
  - Concerned citizens' group: 2
Social Justice Framework . . . so far

• Based on social psychology; corresponds with deliberative democracy & community engagement theories

• Lists principles of social justice divided into 3 categories:
  • Distribution of the Resource – Distributive Justice
  • Structure of Decision-making Process – Procedural Justice
  • Interactions between Stakeholders & Decision-makers – Interactive Justice

• Tells the decision-maker what they need to consider – not what to do!

• It does not:
  • Show inter-linkages between principles
  • Elevate any principles over others
  • Guarantee ‘success’
Social Justice Framework . . . so far

- Distributive justice: basis of **distribution**
  Need, Equity, Equality, Efficiency, Self-Interest

- Procedural justice: structure of the decision-making **process**
  Who participates? Representatives, The Public, Affected Stakeholders, Experts, etc.
  At what level? Informing – Consulting – Involving – Collaborating – Delegating

- Interactive justice: **interactions** between stakeholders and decision-makers
  Trust, Respect, Recognition, Truthfulness, Propriety
## Distributive Justice Principles

<table>
<thead>
<tr>
<th>Principle</th>
<th>What it means</th>
<th>How it has been operationalized in water reform</th>
</tr>
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</table>
| **Equity**      | **Reward** is proportional to contribution / input / deservedness (there is no agreed-upon definition of what the reward is proportional to in the literature)** | • Recognition of prior users’ rights (water entitlements)  
• Recognition of the investments made  
(e.g. development of towns around irrigation enterprises) |
| **Equality**    | **Equal distribution** of resources between identified stakeholders**          | • Equal distribution of resources between competing groups  
(e.g. splitting water savings equally between irrigation & environment in the now redundant National Plan for Water Security) |
| **Need**        | Ensuring basic survival**                                                      | • critical human needs  
• quantification of water needs for environment  
• stock & domestic provisions |
| **Efficiency**  | **Wise use** of resource without wastage**                                     | • Economic: Directing water to most “productive” (i.e. highest “value”) use through the water market  
• Water Use Efficiency: Favouring systems that don’t waste or over-use water |
| **Self-Interest**| Pursuit of what is thought to be in one’s best interest regardless of its impact on others | • State governments pursue self-identified interests of their jurisdiction  
(e.g. government support and encouragement of large-scale irrigation in order to ‘develop’ the state) |
## Procedural Justice Principles

<table>
<thead>
<tr>
<th>Principle</th>
<th>What it means</th>
<th>How it has been operationalized in water reform</th>
</tr>
</thead>
<tbody>
<tr>
<td>Representativeness</td>
<td>Which stakeholder groups are enabled to participate</td>
<td>• Recognition of environmental, social and economic factors of water reform</td>
</tr>
<tr>
<td></td>
<td>Whose interests are recognised</td>
<td>• Recognition of the environment as a legitimate stakeholder</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Recognition of stakeholders who have been marginalised in the past (like indigenous communities)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Recognition of stakeholders who are directly affected</td>
</tr>
<tr>
<td>Level of power</td>
<td>How much influence stakeholders have in the final decision</td>
<td>• Government retains control over decisions but seeks stakeholder input and advice</td>
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</table>

- Stakeholder groups enabled to participate
- Whose interests are recognised
- Recognition of stakeholders who have been marginalised in the past
- Recognition of stakeholders who are directly affected
- Government retains control over decisions but seeks stakeholder input and advice
# Procedural Justice Principles

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<tbody>
<tr>
<td>Transparency</td>
<td>Making all information available to all stakeholders – including feedback and justification of decisions made</td>
<td>• Information provision through a mix of methods</td>
</tr>
<tr>
<td>Accuracy</td>
<td>Decisions based on informed opinion with minimum processing error</td>
<td>• Making decisions based on best available science</td>
</tr>
<tr>
<td>Consistency</td>
<td>Decisions being consistent across jurisdictions and over time</td>
<td>• Basin-wide approach to the water management in the MDB</td>
</tr>
<tr>
<td>Neutrality</td>
<td>Suppression of the decision-makers bias</td>
<td>• Impartial decision-makers that consider the public good</td>
</tr>
<tr>
<td>Correctability of errors</td>
<td>Ability to redress mistakes</td>
<td>• Regular review periods for plans</td>
</tr>
<tr>
<td>Ethicality</td>
<td>Decisions being compatible with fundamental moral and ethical values</td>
<td>• Monitoring and evaluation programs</td>
</tr>
<tr>
<td>Timeliness</td>
<td>Adequate time being given for the process without undue delays</td>
<td>• Adaptive management</td>
</tr>
<tr>
<td>Accountability</td>
<td>Representatives must be accountable to their constituents</td>
<td>• Appointment of delegates from official groups</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Supporting the creation of official groups (MLDRIN)</td>
</tr>
<tr>
<td>Accessibility</td>
<td>The engagement of stakeholders must be done in a way that enables the stakeholders to participate</td>
<td>• Enabling participation for stakeholders (e.g. holding meetings with indigenous communities ‘on country’, instead of in capital cities)</td>
</tr>
</tbody>
</table>
## Interactive Justice Principles

<table>
<thead>
<tr>
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<th>How it has been operationalized in water reform</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Trust</strong></td>
<td><strong>Intentions</strong> of the decision-maker to be <strong>fair and ethical</strong> in the <strong>immediate situation</strong> and in the future</td>
<td>• Overcoming perceived historical injustices through the establishment of fair processes</td>
</tr>
<tr>
<td><strong>Respect</strong></td>
<td>Where people are <strong>respected members</strong> of the group and decision-makers avoid rudeness and discourtesy</td>
<td>• Due consideration of stakeholder views &amp; values</td>
</tr>
</tbody>
</table>
| **Recognition of stakeholders’ social standing** | Communicated through **polite behaviour, dignified treatment** and **respect for one’s rights and opinions** | • Professional conduct of government managers as set down in public service codes and standards  
• Establishment of ground rules for committees and meetings  
• Neutral facilitator  
• Identification of special needs |
| **Truthfulness**                | Decision-makers being **honest** and **free from deception**                  | • Transparency through the provision of information                                                          |
| **Propriety**                   | Decision-makers **avoiding impropriety and prejudice**                       | • Professional conduct of government managers as set down in public service codes and standards             |
Some results out of MDB water reform

**Content Analysis**

Frequency x Weighting = Relative Importance Score

<table>
<thead>
<tr>
<th>Type of need</th>
<th>% of RI Score</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Environmental:</strong></td>
<td>74</td>
</tr>
<tr>
<td>Economic</td>
<td>13</td>
</tr>
<tr>
<td>Irrigation</td>
<td>8</td>
</tr>
<tr>
<td>Industry</td>
<td>&gt;1</td>
</tr>
<tr>
<td><strong>Social:</strong></td>
<td>13</td>
</tr>
<tr>
<td>Human</td>
<td>1</td>
</tr>
<tr>
<td>Social</td>
<td>3</td>
</tr>
<tr>
<td>Public Outcomes</td>
<td>5</td>
</tr>
<tr>
<td>Community</td>
<td>3</td>
</tr>
<tr>
<td>Indigenous</td>
<td>&gt;1</td>
</tr>
<tr>
<td>Cultural</td>
<td>&gt;1</td>
</tr>
<tr>
<td>Recreational</td>
<td>&gt;1</td>
</tr>
</tbody>
</table>

**Distributive Justice Principles**

- Need: 3966
- Efficiency: 333
- Equity: 24
- Equality: 4
- Fairness: 1
Some results out of MDB water reform

Need: Ensuring survival
• Reflects concern with water scarcity – applied mainly to the environment
• Prioritisation shifted with the drought: Environment → Human → Community

Efficiency: Getting the most value out of decreasing supply
• Implemented through the market → market is fair because it’s objective and efficient!
• Farming seen as profit-maximising activity done by individuals

Equity: History of use
• Dominates in practice
• Can’t abandon the irrigators!

The political decision has been taken that we didn’t want permanent plantings to die because that would be basically a serious blow to most of the rural economies . . . Whereas we haven’t really been seeking to protect annual cropping to that extent.

NSW State Government Respondent
• Benefits status quo*
Some results out of MDB water reform

Relative Importance Score

<table>
<thead>
<tr>
<th>Procedural Justice Principles</th>
<th>Frequency x Weighting = Relative Importance Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transparency</td>
<td>211</td>
</tr>
<tr>
<td>Consistency</td>
<td>142</td>
</tr>
<tr>
<td>Accuracy</td>
<td>90</td>
</tr>
<tr>
<td>Impartiality</td>
<td>5</td>
</tr>
<tr>
<td>Error Correctability</td>
<td>5</td>
</tr>
<tr>
<td>Ethicality</td>
<td>0</td>
</tr>
<tr>
<td>Consultation</td>
<td>14</td>
</tr>
<tr>
<td>Involvement</td>
<td>4</td>
</tr>
<tr>
<td>Participation</td>
<td>1</td>
</tr>
<tr>
<td>Engagement</td>
<td>0</td>
</tr>
<tr>
<td>Government</td>
<td>19</td>
</tr>
<tr>
<td>Public Interest</td>
<td>18</td>
</tr>
<tr>
<td>Community</td>
<td>16</td>
</tr>
<tr>
<td>Aboriginal</td>
<td>5</td>
</tr>
<tr>
<td>Agriculture/Industry</td>
<td>2</td>
</tr>
<tr>
<td>Environment</td>
<td>2</td>
</tr>
<tr>
<td>Unspecified</td>
<td>1</td>
</tr>
<tr>
<td>Scientists</td>
<td>0</td>
</tr>
</tbody>
</table>
Some results out of MDB water reform

Transparency: making all information available to everyone
- Lack of it a problem in the past
- Focus on information quantity, more than quality or format

Consistency: Basin-wide approach
- Inter-state differences
- Clashes with localism

Accuracy: Decisions based on best scientific knowledge
- Science viewed as objective and unbiased → fair!
- Many decisions come down to values – science can’t decide our values!

Impartiality: Decision-makers have no conflict of interest
- Not seen as a big issue in case studies by government
- Local stakeholders want decision-makers who have ties to the area
Overall insights from MDB water reform

• No single distributive justice principle is inherently fairer than any other
  – All have consequences!

• What is ‘fair’ depends on the context:
  – Need a shared vision of the goal to determine fair allocation / re-allocation of resources

• Tensions between government accountability for decisions and obligation to stakeholder engagement

• Consequences of instrumental view of participation
  – Sets a high bar for ‘success’

• Many principles for procedural & interactive justice:
  – Key is how they are operationalised
  – Should be considered regardless of methods used

• Mistrust and perceived lack of legitimacy hampering efforts
Governments emphasise procedural justice over other components ‘fair process effect’ – people will accept & comply with unfavourable decision

- Instrumental view: importance of the end outcome
- Relational view: importance of what happens during the process

**Instrumental view**
Success of participatory process judged on final decision rather than relationship-building, learning and interactions that happened during the process

**Level of power:**

Stakeholders must be engaged in decision-making process

Extent of this engagement is not specified – heightens expectations!

“The Minister” retains control over decisions → governments remain responsible and accountable for decisions

**Possible “perverse outcome”**
Engagement may be seen as untenable in controversial situations, Leads to “crash-through” consultation
More insights – Process rules

Many principles . . . . may affect each other
• Decision-making to be based on best available science
  • Undue delays in process when science missing – Timeliness!
  • Science recommendations may clash with local knowledge & values – Respect!

Violation of principles can be subtle
• Becomes clearly evident only when injustice perceived
• Principles gain importance only when perceived to be absent – transparency

Being impartial can be challenging
• Not recognised as a big issue in the cases I researched, but
• Local stakeholders want decision-makers who have ties to the area
• Examples exist where individual decision-makers were perceived to have a conflict of interest
What still needs work – Distributive Justice

- Equality
- Need
- Self-interest
- Equity
- Efficiency

- Maintaining & increasing economic productivity
- Managing resource scarcity
- Improving social relations
- Addressing social welfare
- Achieving political goals
What still needs work – Making the SJF useful

• Capturing intentions & motivations
  – Ignoring principles can point to underlying bias or incompatible values

• Potential for the SJF to be misused
  – Whitewashing justice?

• Balancing applicability with comprehensiveness
  – Adding more & more principles making SJF unwieldy

• SJF needs to be tested . . . Somehow
Next steps for the SJF

- Testing of the SJF in an NRM context (e.g.):
  - Coal Seam Gas
  - Salinity
  - Forestry
  - Marine conservation

- Testing of the SJF in an inter-cultural context – analysis of water reforms in other countries
  - Are there different justice principles in other cultures, or same principles but different emphasis?

- Book outlining the SJF 😊 😊 😊
References

My publications:

Social justice publications: