

ABORIGINAL FISHERIES ISSUES: THE WEST COAST OF CANADA AS A CASE STUDY

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GLOSSARY

First Nations: a term used in Canada to refer to the country's original inhabitants and their descendants; also: Aboriginals.

Aboriginal: The original, surviving, inhabitants of countries whose population largely consists of recent immigrants (as, e.g., in the Americas, Australia and New Zealand). Aboriginal are often marginalized, especially with regard to access to natural resources.

Aboriginal rights: rights flowing from the original occupancy of the territory. Such rights are now recognized in Canada's Constitution and Supreme Court decisions.

Hereditary Chiefs and Elders: The leaders of Pacific Northwest Aboriginal societies; also responsible for transmitting oral history from one generation to another – the 'corporate memory' of First Nations.

Indian Act: Canadian legislation that replaced traditional forms of government with elected officials with a 2-year term of office.

Potlatch: Institution of Aboriginal government where, *inter alia*, responsibilities for lands and resources were transferred from one generation of hereditary chiefs to another.

Traditional ecological knowledge: The knowledge acquired through living in contact with the natural resources of a particular area over many generations.

Traditional territory: The lands, waters, natural and spiritual attributes of the area occupied by an Aboriginal people.

SUMMARY

A brief account is given of the major fisheries-related issues facing Aboriginal societies along the Pacific coast of Canada. This includes the implementation of traditional access rights, now increasingly recognized by Canadian authorities, in spite of wrenching cultural change, a declining resource base, and the overwhelming impacts of commercial fisheries. Increased consultations between Canadian authorities and Aboriginal communities would benefit all. Also, it is suggested that granting increased and, in part, exclusive, resource access to Aboriginal fishers would generate numerous social benefits, for both the Aboriginal communities and society at large.

1. INTRODUCTION

This brief account concentrates on British Columbia (BC), Canada, and on the issues that confront Aboriginal peoples in salmon and other fisheries, but is meant to illustrate problems of resource access and management affecting Aboriginal people in other parts of the World.

BC Aboriginal peoples today describe themselves as 'First Nations' so indicating both original occupancy and nationhood. Aboriginal rights, including fishing, are increasingly recognized in Canadian law. In 1992 the federal government of Canada, the provincial government of BC and the First Nations' Summit established a process of modern-day treaty making to resolve issues of ownership of traditional territories and clarify access and management authority. The issue is complicated, i.e., most of BC's fisheries resources are fully exploited and some are clearly overexploited.

2. TRADITIONAL ABORIGINAL RESOURCE MANAGEMENT

Aboriginal peoples of the Pacific Northwest derive their culture and identity from traditional territory. They are anchored to place in a way that is difficult to fully understand for those who were brought up in a culture characterized by high geographic mobility. For most aboriginal peoples, moving away permanently is not an option.

Indeed, for coastal peoples in general, fisheries are not just the main source of subsistence and wealth. The seasonal cycle of fisheries resources has also shaped their social and cultural life. Thus, anything that affects the availability of fish has social and cultural as well as economic repercussions.

Respect for territory and for all natural resources is the foundation of Aboriginal society, culture and economy. Until contact with European explorers and traders, the hereditary chiefs had an ownership right and management responsibility to ensure the survival of all stocks of salmon and other species. Resource harvest was based on a seasonal round that involved traveling to different sites at different times of year. Pre-contact management systems were grounded in traditional ecological knowledge (TEK) of a wide range of species from different places and habitats. In effect, pre-contact fisheries were based on a rigid 'area licensing' system.

3. IMPACT OF COLONIZATION ON TRADITIONAL RESOURCE MANAGEMENT

After contact, fisheries based on traditional territories were replaced by European-style industrial fisheries where fish are a common property resource available to any licensed fisher. At first, Aboriginal fishermen dominated the new commercial fishery while women and children provided a pool of labor for a network of canneries along the coast. This lasted only until improvements in vessel and freezer technology made it more economical to concentrate the canning industry in cities such as Vancouver and Prince Rupert. The disappearance of local canneries had a catastrophic effect on Aboriginal communities who depended on the canneries as a market for their fish and as a source of employment.

The advent of modern industrial fisheries had several major impacts on Aboriginal society. Important food and trade resources were lost as industrial fleets depleted coastal stocks and moved offshore. Where Aboriginal people participated, as in the early BC salmon fishery, traditional subsistence economies were disrupted. First, by concentration on one fishery instead of a wide range of traditional foods; second, the advent of a cash economy created individual entrepreneurs. Licenses were granted to hereditary chiefs. Skilled fishers were able to acquire boats and licenses. It is worth reflecting on the difference between Aboriginal rights and commercial licenses.

3.1 ABORIGINAL RIGHTS VS. FISHING LICENSES

Firstly, Aboriginal rights are 'recognized and affirmed' in section 31(1) of the Constitution of Canada. In the 1990s, two Supreme Court of Canada decisions, 'Sparrow' and 'Delgam'uukw', provided further clarification of what is meant by Aboriginal fishing rights and Aboriginal title. Prominent among these is the requirement to avoid 'traditional English common law interpretations' and to be 'sensitive to the Aboriginal perspective on the meaning of the rights at stake.'

More specifically, commercial fishing licenses originated from the European common property resource concept. There is no constitutional protection or requirement to be sensitive to Aboriginal concerns. Secondly, Aboriginal rights cannot be extinguished or defined by regulation, while the Minister of Fisheries can cancel or change the conditions attached to commercial licenses. Thirdly, Aboriginal rights are communal, while commercial licenses are owned by individuals or, increasingly, held by large corporations. Fourthly, First Nations' Aboriginal rights are restricted by tradition to their tribal territory (unless by formal agreement with another First Nation), while commercial fishing licenses can be used in any First Nation's tribal territory in BC without their permission. This infringes on the Aboriginal rights and sovereignty of the First Nation concerned.

3.2 ACCESS VS. MANAGEMENT AUTHORITY

Much emphasis has been placed on loss of access, but from an Aboriginal perspective, loss of management authority is equally problematic. The status of chiefs in the hereditary government or Potlatch system, derived from the wealth they were able to give away as a result of their good stewardship of the lands and waters they had been trained from childhood to manage. Replacement of management authority by central government authority and diminishing harvest opportunity sidelined the hereditary chiefs and elders. While not fisheries related, new educational requirements further marginalized chiefs and elders as educators and role models. Canada's Indian Act formalized this process by replacing hereditary systems linked to land and resources with elected governments with a two-year term and virtually no administrative support system.

The view of fisheries as a common property resource and consequent failure of government agencies to appreciate the vital role of place in

traditional management systems has led to tragic and occasionally ludicrous situations. In the 1950s, Canada's Department of Fisheries and Oceans (DFO) dynamited a rock in Hagwilget Canyon on the Bulkley River, thinking that it was a barrier to migrating salmon. What the DFO didn't know was that the rock was the only fishing station of the Hagwilget people. In consequence, DFO were obliged to provide the Hagwilget with canned salmon from elsewhere, much of it not to their taste.

3.3 COMPOUNDED EFFECTS LEADING TO DEPLETION OF FISH STOCKS

The immediate effect of industrial fishing is depletion of the target species. This is followed by targeting other species leading to sequential depletion, and vanishing alternatives. Consequences for Aboriginal people include loss of major subsistence and trade commodities, the cost and danger of going further out to sea in small and sometimes unreliable boats and disruption of cultural and spiritual life. The lasting consequence of the centralization of fishing and processing has been very high levels of unemployment in Aboriginal communities.

The loss of access and management authority and the replacement of local knowledge of many species by highly-quantitative fisheries management science accounts, in the writers' view, for the very small number of Aboriginal people seeking careers in fisheries science and management.

The recent failure of modern quantitative fisheries management science and realization that the warnings of coastal fishing communities had a basis in fact and recent work on the ecosystem effects of fisheries has renewed interest in TEK. Also, new precautionary ecosystem management approaches are being developed that use the traditional knowledge of past diversity and abundance to help in setting restoration goals.

Taking a broader view, the dispossession of BC Aboriginal peoples was almost inevitable. As the realization dawned that salmon were finite, Aboriginal people were demonized for taking the 'last' salmon off the spawning beds. It is now obvious that the displacement of Aboriginal people was only the first stage in a process of corporate concentration that has eliminated most small owner-operators, Aboriginal and non-Aboriginal alike, from coastal communities throughout BC. If stocks continue to decline and management costs to industry go up, there will be

very little left to stop large corporations moving offshore.

4. POLICIES TOWARD RESTORATION

Canada's commitment to social justice in recognizing Aboriginal rights in the Constitution and legislation and the new treaty-making process in BC points a way to restore place-based management. It is suggested that the government of Canada could give consideration to a vessel and license buyback program that, in effect, reverses the effects of corporate concentration. The first task would be to establish an area licensing system that makes sense in terms of marine ecosystems and coastal communities. The second element would be to purchase licenses from large corporations and re-allocate them to coastal communities. While this re-distribution would not be restricted to Aboriginal communities, it could deal first with a down payment on the treaties being negotiated. As a start, Canada could commit \$ 1 billion the next 5 years.

We note here that this sum, although large, pales into insignificance when compared to the \$ 3.5 billion that Canada spent up to 1998 to mitigate community impacts of the 1992 closure of the Atlantic cod fishery.

On the credit side, the expenditure would advance the development of 'place-based' ecosystem management, as indeed required by Canada's new Oceans Act, 1996. It would provide coastal communities, native and non-native, with a long-term vested interest in the health of local stocks. It would stem the loss of lifestyle and the loss of a store of traditional knowledge garnered over thousands of years. It would win and hold public support by addressing British Columbians' concern about conservation and go a long way to defuse opposition by non-Native interests who fear that implementation of Aboriginal fishing rights will further erode their position. In the long-term, it is likely that reduction of transfer payments to coastal communities and creation of new wealth will make a larger contribution to Canada's and BC's tax base than the large corporations do at present.

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