

United we Fish

The fight against the privatization of the fisheries is creating new alliances between native and non-native fishing communities in southwest Nova Scotia.

By Martha Stiegman

Hubert Saulnier's family has been fishing in the Bay of Fundy for as long as there have been Acadians in Nova Scotia. These days a lobster licence, like the one Hubert bought for 25 cents in the early 1960s, goes for just under one million dollars. If you're lucky enough to have one, you can make a good living.

Of course, there's not much of a family fishery left in the Maritimes. People used to make a living catching cod and other ground fish, scallops, and herring. In the past twenty years thousands of independent fishers have been squeezed out of those fisheries and replaced by a handful of large corporations. Before long, the only way the next generation will be able to go out on the water is by working on corporate boats, where they earn minimum wage and rent the quota they fish from the company.

Lobster remains a family fishery on the east coast. It is the backbone of many coastal economies and culture - and it is guarded with a sense of urgency. So when the Supreme Court handed down its Marshall decision in September 1999 affirming First Nations' treaty rights - including the right to fish commercially - tensions rose in coastal communities across the Maritimes.

The Marshall decision has changed the face of the inshore fishery, and it hasn't been a smooth transition. Conflict and confrontation made the news headlines. But in some places the decision has provided the context for a coming together of native and non-native fishing communities. These budding alliances are fast becoming a movement to build more sustainable and inclusive, community-based management of the Atlantic fisheries in the face of ever-increasing corporatization of the industry and privatization of fisheries management.

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In Esgenoopeetitj - also known as Burnt Church - a Mi'kmaq village on New Brunswick's Miramichi Bay, the Marshall decision was greeted with high hopes and much celebration. With few options for work in the area, the chance to catch enough lobsters to feed the family and sell a few on the side was big news. But for Burnt Church First Nation the ruling meant much more than a modest economic opportunity. It meant that finally Canada recognized their right to live according to Mi'kmaq culture and traditions, including their right to fish.

Community leaders undertook an extensive mobilization process - going door-to-door consulting clan mothers, elders, youth and families - to develop a fishery management plan that would reflect the interests and concerns of the entire community. What emerged was a holistic vision of fishing incorporated into community life and culture - a vision fundamentally at odds with the role fishing plays under Fisheries and Oceans Canada (popularly referred to as DFO) regulation.

Under their plan, Burnt Church would fish a total of 15 000 traps per season - 10 000 traps during the spring commercial fishery and 5 000 during a traditional fall fishery. The total would amount to less than 2% of what DFO allocates to fishers in the Miramichi area (known as area 23). Instead of DFO's system where individual licences are distributed to a handful of specialized fishers, fishing privileges would be shared more broadly within the community. Families and individuals could apply for Burnt-Church-issued licences to fish a handful of traps. This would

allow more people to engage in an activity understood as central to their Mi'kmaq culture as well as supplement more household incomes. The plan also incorporated extensive environmental monitoring and conservation measures and a habitat restoration program to be administered by band-funded biologists.

The Burnt Church management plan had received the enthusiastic approval of environmental groups. But faced with what they saw as a threat to their only livelihood, non-native fishers from neighboring communities reacted with violence, intimidation and vandalism when Burnt Church fishers took to the water in the summers of 2000 and 2001.

RCMP officers stood by as non-native fishers destroyed hundreds of thousands of dollars worth of fishing equipment, and convoys of non-native fishing vessels confronted native boats on the water. Images from TV newscasts of RCMP officers beating native fishers and DFO boats ramming native fishing dories suggested authorities shared the goal of preventing Burnt Church from establishing a native-run fishery.

“DFO’s opposition to the Burnt Church plan was not grounded in conservation issues – it was about control” says Inka Milewski, Marine Science Advisor for the Conservation Council of New Brunswick. “A Native-run fishery - or any form of community-based management - goes completely against DFO’s agenda to privatize the fisheries and hand our ocean’s resources over to corporate interests.”

It is a familiar pattern for native communities: what Canada gives through treaties and court decisions is taken away through racist policies and law enforcement. In the case of the Marshall decision, the Supreme Court insisted Canada honour its treaties with the First Nations in the Maritime provinces—a move that affirmed their rights to fish commercially according to Aboriginal cultures and traditions. In practice those rights were denied.

The crisis at Burnt Church has largely dissipated. With the community exhausted after two years of attacks and straining under conditions of tremendous poverty, the local Chief signed a two year fishing agreement with DFO that put 21 specialized fishers on the water with DFO licenses, in addition to the 13 commercial licenses that existed in the community prior to the Marshall ruling. Each license permits 275 traps to be harvested. The total number of traps allowed with the 34 licenses approximates the amount community had initially proposed for the spring commercial fishery.

A small food fishery has also been approved on top of the commercial licenses, but the agreement essentially blocks the fall fishery and maintains DFO’s primacy in fisheries management.

Burnt Church has now turned its energies towards the task of healing. But their stand remains a source of pride for Mi'kmaq across the Maritimes who have chosen a more pragmatic approach in dealing with DFO, and their community-based management plan has become an example for native and non-native groups who are building an alternative vision for the fishing industry.

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Burnt Church is not the only First Nation unsatisfied with DFO's approach to negotiating with Aboriginal groups. "They want to enforce a concept of commercial fishing that doesn't respect Mi'kmaq culture -- and threatens non-native livelihoods as well," says Chief Sherry Pictou.

Her community of Bear River, on Nova Scotia's Bay of Fundy, is holding out on signing a deal with DFO until they can negotiate an agreement based on principles of community-based management. Defence of treaty rights and culture is high on the list of why they haven't signed yet, but it is not the only reason.

"We don't see any evidence of DFO supporting conservation," explains Chief Pictou, "we see them supporting big business." The band is working hard with local non-native fishing groups to find a way to get Bear River fishers on the water according to principles of community-based management, sound ecology, respect for Mi'kmaq traditions, and active cooperation and partnerships with neighbouring fishing communities.

Bear River has chosen to avoid the established route most bands have followed of accessing licenses, gear and training through a DFO agreement. Instead, the band has been working directly with non-governmental fisher organizations in their area to negotiate shared access to ocean resources and to coordinate training for Bear River fishers. This year the Bear River's new partners – groups like the LFA 34 Fishermen's Association and the Bay of Fundy Marine Resource Center (BFMRC) – will be backing the band as they negotiate a fishing agreement with DFO that legitimizes the plan the community has put in place.

Community-management already exists in the in-shore ground fishery in parts of southwestern Nova Scotia. DFO allocates a quota to designated areas, but fisher organizations work together to guide and coordinate much of the management process – establishing opening and closing dates for the fishery according to local needs but within parameters set by DFO, coordinating ecological scientific research, monitoring weekly catch rates, prosecuting infractions and ensuring the participation of fishers and members of the wider community in the management process.

It's likely that Bear River fishers will become active members of this community-based management structure - and their participation will make a big contribution. "What they want to do takes community-management to a whole new level in terms of sharing the licenses and the catch with their entire community" says Martin Kaye of the BFMRC. Fishing plays a different role in many First Nation communities – with local boards responsible for dividing catch between food, ceremonial and commercial purposes, sharing the catch within the community and ensuring the widest possible participation and employment in the industry.

It's taken a lot of work to develop a plan as innovative as Bear River's, but once finalized, it will be an exciting example of how native / non-native cooperation can strengthen community-based management. "It's been hard," says the Chief describing the short-term benefits her band has forgone in holding off on signing a deal, "but I'm glad we've taken this route - we never would have gotten to know the locals the way we have through this process." Her sentiments are echoed by Hubert Saulnier, vice-president of the Maritime Fishermen's Union in the area. Hubert has plenty of stories about the new kind of daily interactions he has with his Mi'kmaq neighbours - which in true Maritime form, often take place at the local Tim Horton's coffee shop.

Hubert and Chief Pictou have become more than friends – they have become valuable allies in a struggle to turn the tide away from fisheries privatization. But relationships between their two communities weren't always so friendly.

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As at Burnt Church, emotions ran very high in southwest Nova Scotia in the fall of 1999 after the Supreme Court released its Marshall decision. In Yarmouth, about an hour's drive from Bear River, 600 local fishers blockaded the harbour in a show of force designed to keep natives off the water. "Those were some of the tensest days of our lives," recalls Hubert.

The political terrain in the area was ripe for conflict. With little contact between native and non-native communities thanks to Canada's reserve system and a long tradition of Maritime racism, there was little context for empathy or solidarity with neighbouring Mi'kmaq bands. Nor were non-native fishers content to leave matters in the hands of DFO. The department has earned a reputation for overlooking community concerns after imposing business-friendly regulatory mechanisms on fishery after fishery -- despite massive popular protests.

With their livelihoods at risk, the fishers of southwestern Nova Scotia were taking matters into their own hands. "We could have had a conflict much more serious than what you saw at Burnt Church," says Arthur Bull of the Marine Resource Center. "We're talking about a fishery that is much more lucrative, a much larger population, and all the parties were armed – the non-native fishers, DFO and the Mi'kmaq."

But instead of coming to blows, native and non-native fishing leaders in southwest Nova Scotia sat down face-to-face to deal with the issues – which go far beyond access to the resource. To transform a near standoff into cooperation, a lot of history and misconceptions would have to be cleared up first. As it happened, the two groups had been laying the foundations for such a dialogue for nearly a decade.

Since the early 90s, non-native fishers in southwest Nova Scotia had been organizing in response to DFO attempts to impose business-friendly regulatory policies on the inshore groundfishery - a move that would have effectively put the industry in corporate hands. Communities fought for, and won the right to manage catch quotas for their areas, and formed democratic organizations to coordinate the community-based management of these quotas at a local level.

Dialogue between non-governmental organizations such as the Bay of Fundy Marine Resource Center, the Bay of Fundy Inshore Fishermen's Association and the Mi'kmaq Fish and Wildlife Commission was first established after the Supreme Court's 1990 Sparrow decision. This decision recognized Aboriginal rights to a food fishery, and it was received in non-native fishing communities with the same hostility Marshall would evoke nine years later.

Because southwestern Nova Scotia fishers had created local democratic organizations to coordinate the community-based management of the inshore groundfishery, there were structures in place for the two sides to talk about the issues. "It didn't take long for us to realize we both wanted the same thing," recalls Arthur Bull, "ecologically sound, community management of the fisheries, based on democratic self-governance or in the case of First Nations, self-government."

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Fishery regulation is about more than determining and allocating catch quotas – it implies a fundamental decision about how we chose to distribute wealth and decision-making power in our society. The Atlantic fishing industry in Canada brings in one billion dollars in revenue every year. Given fishing’s central role in economics and culture, it’s no exaggeration to say that the way we choose to regulate the industry determines a large part of the social and economic development in the region.

The federal government has clearly indicated its vision of who should have power to make decisions about fisheries management, and who should reap its economic benefits. Over the past 20 years, following the influential Kirby report prepared in 1981, the DFO has been downsized, with their role in resource management diminished and handed over to the very corporations who contributed to the collapse of the northern cod.

“Since the Kirby report, Canada has been on a straight and narrow path down the road to fisheries privatization that has left no part of the industry unscathed,” says John Kearney of the Centre for Community-Based Resource Management at St. Francis Xavier University in Antigonish. Indeed, the government’s current vision is very much in step with neo-liberal development models being imposed in countries around the world.

The decision to follow that path was made behind closed doors. “DFO policy and practice have effectively privatized what is legally a commonly held, public resource with no public consultation and no parliamentary debate” according to Inka Milewski, of the Conservation Council of New Brunswick. Her criticism is shared by many, including the Standing Senate Committee on Fisheries. The danger is that once our ocean resources are commodified, they become subject to international trade agreements. “Our fisheries become fair game for international corporate interests” warns Milewski.

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Critics of DFO’s industry-oriented, top-down management approach and creeping privatization were hoping that the Marshall decision would challenge the status quo by incorporating a diversity of regulatory schemes within a broad strategy for conservation. What has actually transpired is quite the opposite.

Since the handing down of the Marshall decision in 1999, 30 of the 34 Mi’kmaq bands in Nova Scotia, New Brunswick and PEI have signed fishing agreements with DFO. A few bands have successfully used the opportunity to fish commercially while incorporating Mi’kmaq traditional knowledge and principles of community-based management. But most are on the water fishing according to the status quo.

The agreements signed between DFO and First Nations have big numbers attached - with funds available for boats, gear, training and licenses. In exchange, bands implicitly accept DFO jurisdiction. With so much poverty on reserves, it’s easy to understand why most Chiefs have signed. However, many native leaders see the deals as a continuation of, and not a break with, Canada’s history of extinguishment policies towards Aboriginal cultures.

By failing to acknowledge native rights to manage their own fishery, Canada is missing out on a chance to make good on history. We are also missing out on the chance to learn from Aboriginal experiences that can help build a new model for an ecologically and socially sustainable management of the fisheries.

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Community-based fisheries management has provided the context to build positive relationships between native and non-native communities in southwest Nova Scotia. According to Arthur Bull, Hubert Saulnier and Chief Sherry Pictou, the key is simple: bottom-up democracy and the necessary dialogue that it implies.

Their vision is for a fisheries management regime wherein a significant portion of decision-making power is transferred from big business and government to the people who have the most invested in the conservation of the stocks – the communities who depend on them. It is a vision where native and non-native cooperation strengthens conservation-oriented practices. And it is a vision that is shared across the Maritimes by a growing number of native and non-native communities involved in what is fast becoming a movement to build community-based management of the inshore fisheries.

News about the fisheries has been grim in recent months with the closing of the northern cod fishery in Newfoundland, and violent demonstrations over crab quota allocations to inshore and Aboriginal fishers in New Brunswick. Can community-based management provide a solution? No one is guaranteeing a quick fix; but many believe it is the only path that can turn the tide in the fisheries away from corporate privatization, ensure long term conservation, and establish the context for conflict resolution and real cooperation between native and non-native fishing communities.

For now, community-based management receives little more than lip service from the federal government. The hope is that once community-based fishing practices are put in place and supported by a broad-based coalition made up of native and non-native fishing communities, environmental groups, non-governmental organizations and the general public, Fisheries and Oceans Canada will be forced to listen.

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