

United We Fish

Martha Stiegman

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



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 20 years thousands of independent fishers have been squeezed out of those fisheries and replaced by a handful of large corporations.

Lobster remains a family fishery. It is the backbone of many coastal economies and cultures – 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 in-shore 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 Atlantic fisheries in the face of ever-increasing corporatization of the industry and privatization of fisheries management.

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

When the Supreme Court handed down its Marshall decision in September 1999 affirming that First Nations have the treaty right to fish commercially, tensions rose in coastal communities across the Maritimes.

plays under Fisheries and Oceans Canada (popularly referred to as DFO) regulation.¹

Under their plan, Burnt Church would fish a total of 15,000 traps per season: 10,000 traps during the spring commercial fishery and 5000 during a traditional fall fishery.² But 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.

Fishing plays a unique role in many First Nation communities: the catch is divided between food, ceremonial and commercial purposes. For both cultural and economic reasons, it is important to have a management plan that ensures the widest possible participation and employment in the industry.

The Burnt Church management plan received the enthusiastic approval of environmental groups.³ But non-native fishers from neighbouring communities reacted with violence, intimidation and vandalism when Burnt Church fishers took to the water in the summers of 2000 and 2001. As no new lobster licences had been issued since the 1970s, the native fishery was perceived as a threat to non-native livelihoods. DFO declared the Burnt Church fishery illegal and the Supreme Court issued its first-ever public clarification of a court judgment.

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 licences, in addition to the 13 commercial licences that existed in the community prior to the Marshall ruling.

The total number of traps allowed with the 34 licences approximates the amount community had initially proposed for the spring commercial fishery.⁴ A small food fishery has also been approved on top of the commercial licences, but the agreement essentially blocks the fall fishery and maintains DFO's primacy in fisheries management.

"DFO's opposition to the Burnt Church plan was not grounded in conservation issues," says Inka Milewski, marine science advisor for the Conservation Council of New Brunswick, "it was about control."

Fishery regulation is about more than determining and allocating catch quotas – it implies a fundamental decision about how we choose 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.⁵ 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, DFO has been downsized, with its role in resource management diminished and handed over to the very corporations who contributed to the collapse of the northern cod.⁶

"Since the Kirby report, Canada has been on a straight and narrow path down the road to fisheries privatization that has

Hubert Saulnier, vice-president of the Maritime Fishermen's Union, is working with the Bear River First Nation on their community-based management plan for the in-shore fishery. Non-native fishers in southwestern Nova Scotia have been managing the in-shore ground fishery at the community level since the early 1990s.

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.

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, Nova Scotia. 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,” says Milewski. Her criticism is shared by many, including the Standing Senate Committee on Fisheries.⁷ 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,” Milewski warns.

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 licences. 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.

“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.”

Bear River has chosen to avoid the route most bands took following the Marshall decision, which was to access licences, 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.

“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.

Saulnier 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.

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, 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.

Perceiving their livelihoods to be 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 Bay of Fundy Marine Resource Centre. “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. As it happened, the two groups had been laying the foundations for such a dialogue for nearly a decade.

Since the early 1990s, non-native fishers in southwest Nova Scotia had been organ-

DFO has earned a reputation for overlooking community concerns and imposing business-friendly regulatory mechanisms on fishery after fishery, despite massive popular protests.

izing in response to DFO attempts to impose business-friendly regulatory policies on the in-shore ground fishery. Communities fought for and won the right to manage catch quotas for their areas, and formed democratic organizations to co-ordinate the community-based management of these quotas at a local level.

The fisher organizations themselves guide and co-ordinate much of the management process – establishing opening and closing dates for the fishery according to local needs but within parameters set by DFO, co-ordinating 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.⁸

Dialogue between native and non-native organizations 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.

But because southwestern Nova Scotia fishers had created local democratic organizations to co-ordinate the community-based management of the in-shore ground fishery, 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 Bull, "ecologically sound, community management of the fisheries, based on democratic self-governance, or in the case of First Nations, self-government."

It's likely that Bear River fishers will become active members of this community-based management structure, although their management plan will also be unique. "What they want to do takes community management to a whole new level in terms of sharing the licences and


the catch with their entire community," says Martin Kaye of the Marine Resource Centre.

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 co-operation 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 in-shore 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 in-shore 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 co-operation 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. 

Originally from Halifax, Martha Stiegman is a development officer at Eco-initiatives, a community-based food security and urban agriculture organization in Montreal.

Notes

¹ This vision is laid out in L. Augustine and J. Ward, "Draft for the Esgenoopotij First Nation (EFN) Fishery Act," <www.rism.org/isg/dlp/bc/background/EFNfa.htm>, (May 2000; accessed June 30, 2003).

² Lloyd Augustine, co-author of the draft EFN Fishery Act, personal communication, July 30, 2003.

³ C. Jones, "Claws of power: Bureaucrats use lobster war to maintain fishery control" *Now Magazine*, <www.nowtoronto.com/issues/2000-09-07/newsfront.html>, (September 7-13, 2000; accessed September 15, 2003), 20:1.

⁴ Each license permits 275 traps to be harvested. (Gaëlle Després, Licensing Specialist, Fisheries and Oceans Canada, Moncton Office, personal communication, July 8, 2003.)

⁵ The Canadian Council of Professional Fish Harvesters, "Preliminary Response of the Canadian Council of Professional Fish Harvesters to The Atlantic Fisheries Policy Review," <www.ccpfh-ccpp.org/eng/faccueil.html>, (May 31, 2001; accessed September 15, 2003).

⁶ The Canadian Council of Professional Fish Harvesters, "Principles for Sustainable Fisheries Management," <www.ccpfh-ccpp.org/eng/faccueil.html>, (November 22-23, 1998; accessed September 15, 2003); G. J. Comeau, "Privatization and Quota Licensing in Canada's Fisheries, Report of the Standing Senate Committee on Fisheries," <www.parl.gc.ca/36/1/parlbus/commbus/senate/Com-e/fish-e/rep-e/rep03dec98-e.htm>, (December 1998; accessed September 15, 2003).

⁷ Comeau, "Privatization and Quota Licensing" [note 6].

⁸ "Community Based Co-Management Resource Guide," <www.coastalcommunities.ns.ca>, (November 1997; accessed August 2, 2003).

Follow up

The Coastal Communities Network is a hub of information on coastal issues and initiatives in Nova Scotia: www.coastalcommunities.ns.ca/ For background information on the Marshall decision and other First Nation fisheries issues, go to the Aboriginal Canada Portal:

www.aboriginalcanada.gc.ca

For a history of the conflict at Burnt Church following the Marshall decision, go to the CBC news archives:

www.cbc.ca/news/indepth/fishing/ 