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INDIGENOUS PRIORITIES FOR CANADIAN FISHERIES REBUILDING: WORKSHOP REPORT



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Oceana Canada hosted a two-day workshop with support from the First Nations Fisheries Council of British Columbia and the Atlantic Policy Congress of First Nations Chiefs Secretariat to start a dialog on Indigenous priorities and approaches for rebuilding wild fish populations in Canada. This report summarizes the workshop themes and outcomes and presents recommendations that were drawn from broadly agreed upon points. The recommendations in this report represent the views held by the workshop participants and are not the official positions of Oceana Canada, the First Nations Fisheries Council of British Columbia, the Atlantic Policy Congress of First Nations Chiefs Secretariat, or any Indigenous organization affiliated with this event.

Participation included individuals associated with the:

Atlantic Policy Congress of First Nations Chiefs Secretariat; British Columbia Assembly of First Nations; Central Coast Indigenous Resource Alliance; Centre for Indigenous Fisheries, University of British Columbia; Confederacy of Mainland Mi'kmaw /Mi'kmaw Conservation Group; Eskasoni Fish and Wildlife Commission; First Nations Fisheries Council of British Columbia; Haida Nation; Lower Fraser Enterprise Inc.; Maliseet Nation Conservation Council; Membertou First Nation; Mi'kmaq Confederacy of Prince Edward Island; Nuu-chah-nulth Tribal Council; Unama'ki Institute of Natural Resources; Sipekne'katik First Nation; Syilx Okanagan Nation; Wolastoqey Nation.

EXECUTIVE SUMMARY

The biggest hurdle to rebuilding wild fish populations in Canada is the current framework under which Fisheries and Oceans Canada (DFO) operates. This includes, but is not limited to:

- Excessive ministerial discretion and a lack of accountability;
- A socio-economic focus that fails to consider the cultural importance of wild fish;
- Management decisions that are disconnected from science and Indigenous Knowledge;
- “Checkbox” consultations with Indigenous Peoples instead of true collaborations;
- A lack of ecosystem-based management approaches; and,
- The use of inefficient benchmarks that are not ecologically or historically significant.

These all have implications for DFO's ability to deliver on federal government commitments to truth and reconciliation, addressing the climate crisis and rebuilding wild fish. As such, it is recommended that the Canadian government and Indigenous organizations work together toward:

- 1) Reforming DFO's decision-making structure to be more accountable and transparent in ways that promote holistic forms of co-governance;
- 2) Implementing fisheries management collaborative agreements between the Canadian government and Indigenous organizations;
- 3) Transforming fisheries management through the creation of new narratives that center on sustainability and ecosystem management and recognizing the ecological and cultural significance of fish as more than just a commodity to be extracted.

SETTING THE STAGE

The online workshop was convened in the summer of 2021, intended to solicit Indigenous perspectives on challenges and opportunities for marine fisheries rebuilding and confirm a set of recommendations for the federal government and Indigenous fishing communities. Participants attended from both the Atlantic and Pacific coasts, representing multiple First Nations, Treaty Tables and Indigenous aquatic research organizations. Invited Inuit and Métis representatives were unable to attend.

This workshop included stage-setting presentations for breakout groups, loosely structured to address key questions presented by the organizers. Presenters for the two-day workshop included Mr. Ken Paul, Wolastoqey Nation, Dr. Robert Rangeley, Science Director at Oceana Canada, Dr. Andrea Reid, a citizen of the Nisga'a Nation and Assistant Professor with the Centre for Indigenous Fisheries at the University of British Columbia, Alanna Syliboy of the Mi'kmaw Conservation Group (MCG), and Elder Dr. Albert Marshall of the Mi'kmaw Nation.

Dr. Robert Rangeley presented the results of Oceana Canada's [2021 Fisheries Audit](#), outlining the state of Canada's wild fish populations and their management, showing that less than one-third of marine fish and invertebrate stocks can be confidently considered healthy. Nearly one in five stocks are critically depleted and the status of one-third is uncertain. While over 90 per cent of fish stocks are included in Integrated Fisheries Management Plans (IFMPs), DFO completed only 20 per cent of its work plan deliverables and has rebuilding plans in place for only seven of 33 critical stocks.

The practice of *Eptuaptmumk*, the Mi'kmaw concept of Two-Eyed Seeing, as coined by Dr. Albert and Dr. Murdena Marshall, was presented by both Elder Dr. Albert Marshall and Dr. Andrea Reid. Two-Eyed Seeing is action-oriented and implies an understanding that no action taken today will compromise the ecological integrity of a species or area in the present or future (Reid et al. 2021). All people must understand how our actions ultimately affect the source of life that we all depend on. Two-Eyed Seeing must be fully integrated into fisheries management to ensure long-lasting fisheries abundance.

Alanna Syliboy presented an example of effective Indigenous fisheries governance. The Mi'kmaw Conservation Group (MCG) works for and alongside all eight mainland Nova Scotia Mi'kmaw communities, with a mission to proactively promote and assist Mi'kmaw community initiatives toward self-determination and community enhancement (MCG, 2021). Since 2013, MCG has conducted conservation activities on Atlantic salmon through the Aboriginal Fund for Species at Risk. The program is multifaceted and includes public outreach and education about Atlantic salmon and eels based on local knowledge; sampling and counting salmon using a variety of methods informed by science and community knowledge; an adult salmon release and spawning program; collaboration with conservation groups and DFO; and conducting habitat surveys and river restoration projects focused on building community capacity and education.

These presentations showcased some of the many tools used by Indigenous Peoples in Canada to research, conserve and benefit from fish – activities that take place within the contested backdrop of Indigenous rights in Canada.

INDIGENOUS RIGHTS IN CANADA

Barriers preventing full, collaborative partnerships between the Government of Canada and First Nations are rooted in the lack of understanding of Indigenous rights within Canada. Canada

cannot advance reconciliation without also acknowledging truths as laid out by the Truth and Reconciliation Commission of Canada and its subsequent calls to action (TRC 2015). Most Canadians (including employees in the federal public service) do not know that the foundation of Canada's Constitution is premised on the Doctrine of Discovery, an archaic international law that gave license to explorers to claim vacant land (*terra nullius*) in the name of their sovereign state. Given that Indigenous Peoples have occupied all areas of North America since time immemorial, this is a false foundation based on a racist, colonial worldview that was used as justification for the claiming of territory and the exclusive use of natural resources.

Inherent rights are the rights that are attributed to all Indigenous Peoples within their traditional territories and are a birthright as outlined in the United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP, 2007). From these inherent rights, Treaty-protected rights emerge. Treaty-protected rights are those that are outlined in the nation-to-nation agreements. For First Nations, treaties do not grant rights, rather, they identify and protect inherent rights that already exist.

There is no legal definition of the term "Indigenous" within Canadian law. The term "aboriginal peoples of Canada" is still the legal, functioning definition within Section 35 of the Constitution that includes Indians, Metis and Inuit peoples (*Constitution Act, 1982*). When the Liberal government (2015-present) invoked the term "Indigenous" to replace "aboriginal" within new legislation (including the amended *Fisheries Act* where 'Indigenous peoples of Canada' has the meaning assigned by the definition in the Constitution Act, 1982), regulations, policies and programs, it can be seen as trying to align Canada's international positioning with other nation-states. However, therein lies a risk that this lack of legal definition may cause problems in legal proceedings negatively impacting any of the Aboriginal groups in the future.

INDIGENOUS KNOWLEDGE SYSTEMS

There is a renewed interest in the collection and use of Indigenous Knowledge (or Traditional Knowledge of Indigenous Peoples) in current and future environmental and impact assessment work. Indigenous Knowledge is explicitly mentioned in the changes to the *Fisheries Act* (2019) and the *Impact Assessment Act* (2019) as additional scientific information that the relevant ministers may consider in decisions.

There is a strong interest in the collection and use of Indigenous Knowledge (IK) but there does not seem to be any real understanding of how it should be used or applied. Even the term Indigenous Knowledge is not something created by Indigenous Peoples, so its very definition is open to interpretation by other parties, such as federal or provincial governments.

A more relevant term would be Indigenous Knowledge System (IKS) which respects the methodology of the knowledge acquisition and identifies it as a "way of knowing." A further important distinction that must be understood is that IKS cannot be separated from value systems. Under the Western system, there is an emphasis on knowledge as information that can be captured and applied without the context of values or place. Indigenous Knowledge is localized knowledge that will change from place to place and nation to nation.

Unfortunately, given the nature of sharing of IK within communities, the intellectual property (IP) rights of IK cannot be protected under IP laws neither domestically nor internationally. The primary reason for this is that IK is communally owned. This lack of IP protection is a threat to data sovereignty.

It is also important to understand that elders and knowledge-keepers are often approached by many individuals, given that they are the source of essential information. Not only should they be compensated for their time and contribution, but there should also be community members commissioned or hired to collect information to protect the integrity of the shared data and to ensure it is done respectfully.

GOALS FOR ABUNDANT FISHERIES

1. **Support and respect the goals, protocols and traditions of each First Nation and Indigenous government.** All First Nations in Canada, whether coastal or inland, have unique languages, cultures, histories and relationships inter-tribally or with Canada. Care must be taken to support and respect the goals, protocols and traditions of each First Nation in their nation-building strategies. Because all First Nations have been impacted by colonization, there are several commonalities between them, and therefore some work can be done to support them individually and collectively.
2. **Support and codify First Nations and Indigenous governance authority, including over natural resources and those activities which impact ecosystem health.** All First Nations are looking to have recognized governance authority, in one form or another, over natural resources including fisheries and habitat. This goes beyond the federal mandates of co-management, collaborative management or cooperative management. At the very least, the paradigm must be co-governance, which implies recognized governance authority and laws. This includes not only looking at the health of fish but also having authority over activities that impact fish habitat from land-based activities.
3. **Support rights-based fisheries which can have positive implications for self-governance and fisheries conservation.** The work to have healthy fisheries is one of the essential rights-based activities toward food sovereignty and food security. Additionally, economic benefits from the fishing sector must be shared equitably among community members, which would also include diverse economic and employment opportunities within the fisheries sector. Indigenous fisheries would have these benefits embedded within the governance, management and social structures if these were supported by the respective communities. An overarching goal of First Nations and Indigenous fisheries governance is to manage toward abundance, not simply sustainability.

EMERGING THEMES

Workshop participants discussed several important issues with discussions prompted by the following questions:

- What are your most pressing concerns about the state and management of fisheries?
- What sources of evidence, practice and knowledge systems need to be better incorporated into fisheries science and management?
- What are your fisheries rebuilding priorities and how should they be addressed?
- What actions, and by whom, are required to rebuild fisheries?

A wide array of challenges were raised, with a particular focus on the limits of DFO's policies, processes and internal decision-making. Four key themes emerged:

- 1) **The biggest hurdle to rebuilding wild fish populations is the current framework under which DFO operates.**

The Fisheries Minister has excessive discretionary powers and a lack of accountability.

“Business as usual” is not working, and a major reason is excessive ministerial discretion and the absence of a framework to hold ministers and deputy ministers accountable for their decisions. Little progress has been made since the Royal Society of Canada 2012 Expert Panel Report on marine biodiversity recommended greater accountability for ministers and “*That the Government of Canada reduce the discretionary power in fisheries management decisions exercised by the Minister of Fisheries and Oceans.*” (Hutchings et al., 2020).

Socioeconomic focus trumps Indigenous priorities with implications for sustainability. DFO prioritizes recreational and commercial fisheries. This fails to address food, social and ceremonial (FSC) fishing rights, the cultural and spiritual significance of wild fish populations, including cultural ceremonies and practices (i.e., First salmon ceremony among many Pacific coast First Nations), and traditional Indigenous ways of knowing and knowledge systems about these wild fish and ecosystems. It is important to note that a loss of salmon (and other culturally significant fish species like herring, mackerel and eel) has profound and wide-reaching implications; it is a loss of food but also a loss of identity and culture; a form of cultural genocide.

Fisheries Management is disconnected from science and Indigenous Knowledge. Current benchmarks within the Sustainable Fisheries Framework (SFF), such as Maximum Sustainable Yield (MSY) are inefficient and must be shifted toward broader ecosystem values that are based on historically and ecologically significant levels. Further, the SFF needs to recognize fish as an essential part of ecosystems with a large cultural influence that cannot be separated from their ecological significance.

2) Meaningful collaboration with First Nations is needed in fisheries management decision-making.

Move from “Check-box” consultation to co-management. The co-management of wild fish populations between DFO and First Nations needs to be a priority for the government — not just a “check-box” consultation but rather a true collaboration wherein parties come to a collective agreement that reflects everyone’s needs. DFO currently works within a structure it created rather than through a meaningful governance structure that involves and includes Indigenous governance.

The government needs management structures that include access to FSC, food fish and moderate livelihood fisheries, and considers cultural ceremonies and practices. DFO must ensure these are accounted for in conservation initiatives and management decisions and are not siloed.

Fully implement the UNDRIP Act (2021). Reconciliation is a process that can be informed by UNDRIP, adopted by Canada in 2021 through the *United Nations Declaration on the Rights of Indigenous Peoples Act* (2021). It recognizes that Indigenous reconciliation is a requirement for the future governance of our fisheries and marine and aquatic ecosystems. UNDRIP’s consent means agreement, not veto power. Indigenous perspectives bring “humility to these discussions.” Free, Prior and Informed Consent

(FPIC) needs to be defined from an Indigenous perspective to ensure fair, honest and good-faith negotiations and collaborations.

Account for Indigenous rights, knowledge and worldviews in fishery management. Fishery management in Canada needs to recognize and account for jurisdictional and inherent Aboriginal and treaty rights of First Nations and other Indigenous Peoples. It is critically important that the federal government incorporate local, regional and nation-to-nation priorities regarding building policy that encompasses the ecological, biological and cultural differences that are seen from region to region.

Indigenous Knowledge and ways of knowing (i.e., Two-Eyed Seeing) need to be incorporated into fisheries management by being considered on equal footing with DFO science contributions and with opportunities for separate Indigenous-led assessments. IKS must also be incorporated into habitat provisions and policy decisions at the local level to account for regional variances, both culturally, biologically and ecologically.

It is important to guard against Indigenous concepts and practices becoming buzzwords without action. Including IKS practices such as Two-Eyed Seeing into fisheries management must be informed by Indigenous Peoples and their use should be done thoughtfully and with meaningful consultation – not unilaterally by government bureaucrats.

3) Indigenous fisheries governance already takes place, is highly effective and must be supported by the government to conserve fisheries and fish habitat.

Indigenous fisheries governance takes the form of stewardship, conservation and harvesting – activities that are not at odds with one another. Indigenous fisheries conservation employs scientific techniques alongside Indigenous ways of knowing. Indigenous Knowledge and worldviews can inform fisheries science including through strengthening the precautionary approach to fully account for ecosystem needs.

4) Need for a paradigm shift toward ecosystem-based management.

DFO manages fisheries as commodities organized in arbitrary stock units. The disconnect between knowledge (science and traditional) and fisheries management decisions fails to address the spatial scale of biological populations, regionalized differences, ecosystem contexts, realities of climate change and the needs of coastal communities. Climate change and the ensuing climate crisis may be seen as the “last domino” in a potential ecosystem collapse. Fisheries need to be managed in ways that account for their synergistic effects of climate change and fishery exploitation, while considering ecosystem requirements.

We need a ‘New Narrative’ for fisheries management that incorporates all perspectives and recognizes historical harmony between Indigenous Peoples and nature. This could include developing an ecological constitution that aligns with UNDRIP and other national and international commitments and initiatives and recognize the ecological and cultural significance of fish as more than just a commodity to be extracted. Fish are a meaningful part of our world as they sustain communities, cultures and biodiversity.

RECOMMENDATIONS

The following recommendations were drawn from broadly agreed upon points discussed during the workshop and do not necessarily represent the official policy positions of individual workshop attendees, the organizations they represent or the workshop-sponsor organizations.

1. Reform DFO's decision-making structure to become accountable and transparent in ways that promote holistic forms of co-governance.

- Reduce discretionary power of the Minister of Fisheries, Oceans and the Canadian Coast Guard in future amendments to the *Fisheries Act*.
- Create a formal process for holding the Fisheries Minister and Deputy Minister accountable for DFO decisions. At the most simplified level, this could mean annual public reporting on how decisions are made
- Create a mechanism for fisheries co-governance.

2. Implement fisheries management collaborative agreements between the Canadian government and Indigenous organizations.

- a. Work alongside Indigenous groups to create a framework for Indigenous-led assessments based on Indigenous Knowledge Systems and ways of knowing to complement scientific assessments of fish populations and ecosystem health and inform management decisions.
- b. Define “free, prior and informed consent” in the context of fisheries management decisions for the Indigenous Peoples of Canada.
- c. Protect Aboriginal rights and Title at all costs and do not abrogate or derogate when entering into fisheries agreements with the government.
- d. Require participation from provincial and territorial governments when developing co-management with Indigenous Peoples and recognize the diversity of relationships that exist.

3. Transform fisheries management through the creation of new narratives.

- Raise the MSY bar that defines a healthy stock under the SFF and Precautionary Approach to restore fish populations to benchmarks informed by historical baselines, while simultaneously accounting for the ecological and cultural contributions of these populations or species.
- Update the approach to MSY to prioritize ecological functions, followed by FSC fisheries, other rights-based fisheries and Indigenous commercial fisheries before being opened to other uses such as recreational and commercial fisheries.
- Prioritize ecosystem-based fisheries management that accounts for climate change impacts and ecosystem requirements.

CONCLUSION

Abundant fisheries are needed for healthy ecosystems and the innumerable benefits they provide. In the longer term, this will be paramount to face the twin crises of halting biodiversity loss and adapting to climate change. Indigenous Peoples have always known that thriving fisheries are essential to healthy ecosystems, and for sustenance and wellbeing. A spiritual connection is evident to both fishers and cultural leaders.

Addressing environmental degradation by restoring habitats and conserving fisheries will require Indigenous Knowledge Systems, Western knowledge and other ways of knowing. This is needed

to advance more holistic and rigorous ways of knowing and could have positive implications for addressing other challenges we face across our societies such as in health and wellness, and in addressing the various threats from climate change.

Although including Indigenous priorities, worldviews and knowledge systems is increasingly supported by Canadian federal and provincial governments, for this approach to work, our collective priorities need to shift. The government cannot continue to look to fisheries as a solely economic commodity that will provide for us without any impact on the ecosystem. Our fisheries require a balanced approach to management, where ecological and social priorities take a more prominent role as we begin to shift to a governance model that reframes our respective roles and place within the ecosystem.

This workshop continues a conversation that Indigenous Peoples have been leading for years. Now is the time to mobilize our shared priorities of reforming fisheries governance in Canada toward ensuring abundance and healthy marine ecosystems. Action is required to mobilize our emergent themes and advance our recommendations through a common strategy. As our nations individually pursue their paths toward self-governance, participants from this workshop should meet again to identify necessary steps to build on the recommendations.

There is hope from First Nations and Indigenous communities that it is possible to rebuild abundance using the lessons learned and formed through Indigenous Knowledge Systems. As the Canadian government and civil society increasingly look to Indigenous Peoples for guidance on how to rebuild abundance, they must recognize that a paradigm shift will need to occur. This will require empowerment, inclusion and support for First Nations and Indigenous Peoples to lead us on our path forward. As we look to our partners to adopt a Two-Eyed Seeing approach in concert with Indigenous Peoples, we recognize that this is not only important to ensure abundant fisheries and mitigate climate change, but also to advance truth and reconciliation in Canada.

REFERENCES

- Hutchings, J.A., Côté, I.M., Dodson, J.J., Fleming, I.A., Jennings, S., Mantua, N.J., Peterman, R.M., Riddell, B.E., Weaver, A.J., & VanderZwaag D.L. (2012). Sustaining Canadian marine biodiversity: responding to the challenges posed by climate change, fisheries, and aquaculture. Expert panel report prepared for the Royal Society of Canada, Ottawa. https://rsc-src.ca/sites/default/files/RSCMarineBiodiversity2012_ENFINAL.pdf
- Hutchings, J.A., Baum, J.K., Fuller, S.D., Laughren, J., & VanderZwaag, D.L. (2020). Sustaining Canadian marine biodiversity: Policy and statutory progress. *FACETS*. 5(1): 264-288. <https://doi.org/10.1139/facets-2020-0006>
- MCG. (2021). Mission & Netukulimk. Mi'kmaw Conservation Group. <https://mikmawconservation.ca/mission-netukulimk/>
- Oceana Canada. (2021). 2021 Fishery Audit Unlocking Our Potential for Abundant Oceans: Canada's Performance 2017-2021. https://fisheryaudit.ca/FisheryAudit_2021.pdf
- Reid, A.J., Eckert, L.E., Lane, J-F., Young, N., Hinch, S.G., Darimont, C.T., Cooke, S.J., Ban, N.C., & Marshall, A. (2021). "Two-Eyed Seeing": An Indigenous framework to transform fisheries research and management. *Fish Fisheries*. 22: 243– 261. <https://doi.org/10.1111/faf.12516>

- *The Constitution Act, 1982*. https://laws-lois.justice.gc.ca/eng/const/const_index.html#:~:text=The%20Constitution%20Act%2C%201982%20contains,amending%20the%20Constitution%20of%20Canada.
- TRC. (2015). Truth and Reconciliation Commission of Canada: Call's to Action. https://ehprnh2mwo3.exactdn.com/wp-content/uploads/2021/01/Calls_to_Action_English2.pdf
- UNDRIP. (2007). United Nations Declaration on the Rights of Indigenous Peoples: resolution / adopted by the United Nations General Assembly, 2 October 2007, A/RES/61/295, available at: <https://www.refworld.org/docid/471355a82.html>