

Polar Oceans Governance



Nunavut Fisheries Co-management and the Role of the Nunavut Land Claims Agreement in Fisheries Management and Decision Making

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Introduction

The Inuit's history of harvesting resources from the Arctic's rich aquatic environment pre-dates contact with Europeans. However, continued access to such resources is being threatened from an increasing number of pressures, and local communities have voiced concerns over these trends.¹ These include climate change impacts, mineral exploitation, ecological changes, cultural changes, food insecurity and socio-political changes affecting the governance of natural resources in the Canadian Arctic.²

With regard to the harvesting and allocation of fisheries resources in Canada, the decision-making processes generally take place within the federal

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- 1 Council of Canadian Academies, *Aboriginal Food Security in Northern Canada: An Assessment of the State of Knowledge*. The Expert Panel on the State of Knowledge of Food Security in Northern Canada (Ottawa: Council of Canadian Academies, 2014); M. Simon, "The Arctic: A Barometer of Global Change and a Catalyst for Global Action" (paper presented at the Inuit Circumpolar Conference, New York, 26 April 2004), available online: <<http://inuitcircumpolar.indelta.ca/index.php?ID=258&Lang=En>>.
- 2 J. Wandel, B. Smit, T. Pearce and J. Ford. "Science and Indigenous Knowledge in Resource Management in the Canadian Arctic," in *Integrating Science and Policy: Vulnerability and Resilience in Global Environmental Change*, eds. R.E. Kasperson and M. Berberian (New York: Earthscan, 2011), pp. 291–306.

Department of Fisheries and Oceans (DFO) using Western science-based knowledge systems.³ The authority of the Crown (federal government) for sea-coast and inland fisheries is specified in the *Constitution Act* (1867/1982) along with the legal duty to consult and accommodate Aboriginal and treaty rights.⁴ Operational mandates are provided primarily under the *Fisheries Act*, *Oceans Act*, and *Species at Risk Act*, but other relevant pieces of legislation may come into play.⁵

Recognizing that the values and socio-cultural context underpinning the Inuit worldview differs from a Western scientific worldview,⁶ this article examines the structure of fisheries governance in Canada with a specific focus on Nunavut and the co-management framework, created through the *Nunavut Land Claims Agreement* (NLCA).⁷ Part I sets the context for this article by highlighting the existing legal framework governing the harvesting of wildlife resources in Nunavut and provides a brief overview of knowledge systems. Given the diversity of resources and fishing practices within the Nunavut Settlement Area (NSA), and adjacent waters, Part II of this article explores the different major fisheries, the regulating bodies, guiding policies and frameworks for decision-making influencing the fisheries in Nunavut. Using three fisheries case studies, Part III discusses the unique nature of how the NLCA directs the co-management framework within the NSA (12-nautical mile limit of Canada's territorial sea boundary), and how fisheries management and decision making takes place outside that boundary. Part IV concludes the article by discussing the challenges arising from this form of governance structure for fisheries in Nunavut as well as opportunities leading to more effective

3 As defined by Holzer and Marx, "The knowledge system can be seen as social arrangements clustering around the processes of knowledge production, organization and storage, distribution and use." B. Holzer and J. Marx. *Knowledge Application: The Knowledge System in Society* (Boston: Allen and Bacon, 1979), p. 13.

4 *Constitution Act*, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c. 11. See Section 35 for the duty to consult and Section 91(12) for seacoast and inland fisheries.

5 *Fisheries Act* (RSC 1985, c. F-14); *Oceans Act* (SC 1996, c. 31); *Species at Risk Act* (SC 2002, c. 29). For examples of other potentially relevant acts, see *Coastal Fisheries Protection Act* (RSC, 1985, c. C-33) and the *Canadian Shipping Act, 2001* (SC 2001, c. 26).

6 E. Bielawski, "Inuit Indigenous Knowledge and Science in the Arctic," *Northern Perspectives* 20, no. 1 (1992): 5–8; G. Wenzel, "Traditional Ecological Knowledge and Inuit: Reflections on TEK Research and Ethics," *Arctic* 52, no. 2 (1999): 113–124; A. Kristofferson and F. Berkes, "Adaptive Co-management of Arctic Char in Nunavut Territory," in *Breaking Ice: Renewable Resource and Ocean Management in the Canadian North*, eds. F. Berkes, R. Huebert, H. Fast, M. Manseau and A. Diduck (Calgary: University of Calgary Press, 2005), pp. 249–268.

7 Nunavut Land Claims Agreement (NLCA), "Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada," (1993), available online: <<http://nlca.tunnngavik.com>>.