

A New Year's Make-Over for Federal Policy in Atlantic Canada

Redesigning the Fishery

Perhaps the greatest distortion of Atlantic Canada's economy has taken place in the fishery. Political commentators and regional policymakers often argue about the necessity and fairness of supporting the region's "traditional" way of life in the fishery. In fact, the fishing industry in Atlantic Canada today is a political artifice, constructed with billions of dollars of public money, and has little to do with the region's traditional fishery. By the early 1990s, about two and a half people were working in the fishery for every one in 1961.

The Fishery as a Gateway to Social Welfare

In many communities throughout Atlantic Canada, the fishery is regarded as the employer of last resort – a means to "stamp up" as many members of the community for EI benefits as possible and provide them income for the year in a crude kind of workfare program. Indeed, even before the northern cod stocks collapsed, EI benefits provided a larger share of income in fishing communities depending on the cod fishery than did fishing itself. Large numbers of people became trapped in a cycle of seasonal work and EI benefits that kept them locked in low-value economic activities and impeded reforms to the structure of both the fishing industry and social welfare programs.

The industry as a whole must be allowed to move to a year-round, sustainable, profitable footing even when that strategy requires some job losses. Much of Fishery Products International's recent financial problems can be traced to global competition from such countries as China. The use of the fishery as a make-work program has made it difficult for those fish companies still in business to compete against countries that use more modern and efficient harvesting and processing techniques.

Resource Ownership and the "Tragedy of the Commons"

In addition to problems caused by federal and provincial interventions in the management of the fishery, there is the underlying problem of the ownership structure of the resource itself. Under the current regime, fish stocks are a common property resource, owned by the Crown and managed by the federal government. It is a well-established economic principle of a common property regime however, that self-interest causes people to act in ways that are destructive of the resource. Furthermore, no amount of moral exhortation or heavy-handed bureaucratic management is ever more than modestly successful in changing this "Tragedy of the Commons". Incentives matter, however. If

people's behaviour in the fishery is to change, a way must be found to encourage their self-interest to coincide with the need for sustainable management of fish stocks. The alternative is future ecological and economic disasters along the lines of the collapse of the northern cod stocks.

On land, ranchers own their cattle and farmers own the productive capacity of their land. Ranchers and farmers who run down the long-term value of their assets through poor management pay a direct, personal cost. In other words, ownership of these assets introduces a direct and tangible accountability into the quality of stewardship of the resource. Fishermen, on the other hand, by and large do not own the fish until they have landed their catch in the boat. Instead of owning the resource, fishermen have a licence from the federal Department of Fisheries and Oceans to put their nets, lines, or traps in the water at the times and places the department's bureaucrats authorize. Fish that any one fisherman does not catch during the short season do not simply remain in the water to reproduce, but are sought by other fishermen. Thus, all fishermen have an incentive to catch as many fish as possible as quickly as possible, and to cheat on artificial rules designed to hold down harvesting capacity so that access to fish stocks can be distributed on the basis of political pressure.

The federal government reaps few of the benefits that sound resource management would produce. Instead, it runs the fishery to maximize short-term employment – which then acts as a gateway to social benefits – and to maintain coastal populations in a state of political dependency. In this, Ottawa is aided and abetted by provincial governments that regulate fish processing with the same short-term employment objectives in mind. Productivity and profitability pay the price.

The politicization of fish management has resulted in a huge influx of people *into* the fishery over the past 30 years. Yet, the industry will become sustainable only if ownership and management of the resource is given to the people who live from it. And only then will people now in the industry be able to decide whether to

fish, rent out their quotas, or sell them outright and do something else with their capital. Much of the fish caught on the East Coast fails to fall under some form of property right. Moreover, those property rights that do exist are usually of poor quality and subject to high risk of political interference. This means that, on the whole, the chief asset of many coastal communities cannot be leveraged to create new economic opportunity or recombined effectively with other assets to create higher value added. This “dead capital” stunts economic life and opportunities in coastal communities.

One approach to overcoming the problems of ownership and control in the fishery would be to make fish quotas fully transferable and tradable. Where such a strategy has been implemented, the fishery has been rendered sustainable and the quality and use of the resource have increased. Under such a system of property rights, fishermen, rather than frantically racing to wrench indiscriminately as much stock from the ocean in the shortest time, tend to adopt better management strategies that handle catches more respectfully and reduce the number of unwanted species of fish caught, thus ensuring maximum value from each fish.

Aquaculture: The Farming of the Future

Aquaculture provides another example of the difficulty of shifting economic activity to higher value added in traditional natural resource industries burdened by overregulation and behaviour patterns reinforced by social welfare programs.

World aquaculture production has increased seventeen-fold in the past 50 years, and the industry now supplies one-fifth of all the protein consumed from the sea. In the not-too-distant future, farmed fish, shellfish, and algae will overtake the wild fishery in value. The industry currently generates about \$1 billion a year in economic activity in Canada. In 2003, it generated \$239 million in gross domestic product in Atlantic Canada, and provided jobs for roughly 3400 people in coastal communities. Such figures show aquaculture's many advantages: it is based in coastal communities where jobs are scarce, it is not seasonal, it uses – and therefore

encourages – high technology, and it meets a growing worldwide market demand.

Ironically, Canadian aquaculture technology and expertise is in demand around the world, but legal and bureaucratic hurdles make the industry's local growth slow compared to that of the global industry, representing huge lost opportunities for workers, investors, and taxpayers in Atlantic Canada. On the legal side, the absence of high-quality property rights in the water column, foreshore and seabed hampers the industry's development. On the bureaucratic side, numerous federal and provincial departments must each give their separate approval for an aquaculture operation to go ahead; the process for allowing fish farmers to use the water is capricious and arbitrary; and leases are often too short or too small for efficient operations.

The Absence of Property Rights in Aquaculture

Aquaculture could easily become a vigorous and lucrative industry for Atlantic Canada, as the wild fishery continues to decline and markets open up for high-grade farmed fish. Yet “fencing” this last frontier is hampered by a property rights system essentially developed for the hunter/gatherer nature of the wild fishery, rather than agriculture, which aquaculture more closely resembles (see Neill 2003).

The development of agricultural-style property rights for aquaculture faces two major hurdles. First, the agricultural frontier advanced under the assumption that the land was empty and to be had for the taking — although we now realize that this assumption was wrong, since aboriginal peoples lived on the land and had rights of which Europeans took little account. Today, however aquaculture faces prior ownership and usage rights — on the part of aboriginals, recreational users, and capture fishermen, for example — in coastal waters.

Second, unlike in agriculture, where ownership was transferred from the Crown to the individual farmer, in aquaculture the Crown continues to own the seabed, the water column, and the water surface. In effect, the fish belong to the fish farmer but the fish farm does not. The fish

farmer's relationship to government is one of lessee to lessor, not owner to regulator. As lessee, the farmer has obligations, while government imposes its will through decisions made by the relevant minister and bureaucrats, with all the pressures to bend to special interests and political expediency such a relationship implies.

Individual property rights are important in aquaculture for the same reasons they are important in all other settings — such as radio frequency auctions and tradable pollution permits — where new legal instruments have been developed to extend the logic of property rights to new circumstances. Yet, there are no federal or provincial statutes dedicated solely to aquaculture. Even as recently as February 2003, “aquaculture” had not been defined in case law. Accordingly, the fish farmer faces a situation in which there is no legal restraint on government or on administrative discretion, no right to sue government in the courts, and no rights that government itself is duty bound to protect. Canadian fish farmers have been arrested for “illegal fishing” even though they were harvesting animals that existed chiefly because of the culturing efforts of their owners. The police refuse to lay theft charges against people who rustle aquaculturists' fish stocks because property rights are so muddy that it is unclear that the aquaculturists own what is stolen. Given the precariousness of their ownership of animals and farm, aquaculturists face huge problems in getting adequate financing and insurance, so that substantial productive capacity in the oceans is being squandered. Canadian aquaculture is, in effect, controlled by a sluggish and inept bureaucracy that is blinkered by a concern for short-term economic development and endowed with discretionary power biased by the political strength of established interests.

International experience with property rights in aquaculture has important lessons for Canada. Chile, for example, has conducted several interesting legal experiments to kick-start its salmon-farming industry, which is now one of the largest in the world. That country has created a legal foundation that grants licences and leases bestowing virtual private property rights in fish-farming sites. It has also developed a national aquaculture policy that encourages

entrepreneurship, supports export efforts, and helps fish farmers navigate the bureaucracy. Despite its problems — controversy exists over environmental impacts on the country's southern fiords, for example — Chile's national policy is one that promotes aquaculture, not one that defends the wild fishery or an outmoded common-property approach to managing coastal resources.

If Canadian aquaculture is to grow, become profitable, employ more people, and feed more of the world's population, the industry needs secure property rights to the foreshore, the water column, and the seabed — rights embodied ideally in a National Aquaculture Act and backed by the courts. It does not need more government economic incompetence and inefficiency, or arbitrary decision-making by bureaucrats.

An Over-Abundance of Regulation in Aquaculture

Canadian aquaculture is overseen by a veritable “who's who” of federal government agencies and departments dealing with customs, veterinary drugs, navigation, fisheries, research, industry, and so on, each with a specific mandate and usually a narrow focus. What is needed, as AIMS authors have argued is a single-source regulator — or at least a single agency that has paramount authority. Moreover, that authority most emphatically should not be the Department of Fisheries and Oceans, whose institutional structure is too wedded to an anti-industrial wild fishery culture, but a more industry-oriented agency, such as Agriculture or Industry.

Recommendations:

- **Transfer ownership and control in the fishery immediately to those who live from the resource. Make fish quotas fully transferable and tradable.**
- **Pass a National Aquaculture Act that creates strong property rights in the ocean resources required for the aquaculture industry to expand and thrive.**
- **Transfer jurisdiction over aquaculture from the Department of Fisheries and Oceans to an industry-oriented department such as Agriculture or Industry.**