Empowered Co-management: Towards Power-Sharing and Indigenous Rights in Clayoquot Sound, BC[1]

Tara C. Goetze   *McMaster University*

Abstract: This article reports and takes up Aboriginal perspectives on co-management that highlight the intrinsic linkages between the environmental and socio-political dimensions of natural resources. In doing so, it explores the capacity of co-management to address Aboriginal claims for self-determination and increased control over traditional territories within liberal-democratic state systems. Analysis of the Interim Measures Agreement between the Nuu-chah-nulth First Nations and British Columbia demonstrates how co-management involving Aboriginal peoples in a negotiated framework of substantive power-sharing provides a venue for augmented levels of confidence in indigenous-state decision-making processes. Additionally, it advances Aboriginal participants' rights claims against the state. Negotiating such "empowered" co-management represents a positive shift in relations between indigenous peoples and governments within settler states in the absence of constitutional change.

Keywords: co-management, Aboriginal rights, Clayoquot Sound, resource management, Nuu-chah-nulth First Nations, Aboriginal-state relations

Résumé : Cet article décrit et adopte des positions autochtones sur la cogestion qui mettent en relief les liens intrinsèques entre les dimensions environnementales et sociopolitiques des ressources naturelles. Ce faisant, il explore la capacité de la cogestion à répondre aux revendications autochtones pour l'autodétermination et pour le contrôle accru sur les territoires traditionnels à l'intérieur de systèmes étatiques démocrates libéraux. L'analyse de l'Entente de mesures provisoires entre les Premières nations Nuu-chah-nulth et la Colombie-Britannique démontre que la cogestion impliquant des peuples autochtones dans le cadre négocié d'un partage substantiel du pouvoir permet de renforcer la confiance dans les processus de prise de décision conjointe entre les autochtones et l'État, tout en faisant progresser les revendications des droits des participants autochtones contre l'État. La négociation de ce type de cogestion «habilitée» représente une amélioration des rapports entre les peuples autochtones et les gouvernements au sein d'états colonisateurs, en l'absence de changements constitutionnels.

Mots-clés : Cogestion, Droits autochtones, Clayoquot Sound, Gestion de ressources, Premières nations Nuu-chah-nulth, Relations autochtones-État

As long as our Chiefs survive, our rights and title will remain. We exercise our Aboriginal rights and hold our title as a result of the *Hahuulhi* of our Chiefs and we seek to protect the land, sea, and resources within our territories. (Nuu-chah-nulth Tribal Council 1991: 4)

Before, the First Nations were outside the door, and we couldn't get in. If we got in, it would be there just to get up and say what we have, but it had no meaning. Now, we're actually at the table facing the government and various ministries and others, planning and making decisions for resources in Clayoquot Sound, and that's a huge difference than the way it was before. A lot of the things that go on now in Clayoquot Sound, if they don't have First Nations involvement, they don't go anywhere.[2] (Stephen Charleson, Hesquiaht First Nation)

Introduction

In the past three decades, co-operative management of resources involving indigenous peoples in North America has been investigated from a variety of perspectives. While a spectrum of the theoretical and practical insights concerning indigenous-state co-management regimes has emerged, many of these analyses have been dominated by a particular scope of inquiry: co-management was seen primarily from a resource-centred perspective. This makes sense, given that the primary motivation for initiating co-management in these settings is usually to ameliorate the management of a resource in crisis, threatened by competing interests whose effects are typically compounded by divergent knowledge systems. Yet even early on, the literature revealed a shared understanding that co-management is not only about improving the *management of resources*, it is also about negotiating and redefining *relationships between people* with varying interests in, and varying degrees of authority over, the resource(s) (Finlayson 1994; Hoekema 1995; Pinkerton 1989; Usher 1986).

It is this aspect of co-management, its socio-political nature, that became the focus of my research on co-management in Clayoquot Sound and is, I suggest, an analytical approach in need of development.[3]

My interest here is to direct the lens to specifically consider the sociality and politics emergent from the management of and claims to natural resources among competing actors which allows for a more comprehensive understanding of the benefits, limitations and challenges of co-management regimes. This is particularly significant for arrangements that involve indigenous peoples as co-managers within liberal-democratic settler state systems.

Research concerning the implications of the *Interim Measures Agreement for Clayoquot Sound* (IMA) between the Government of British Columbia (BC) and the five Central Region Nuu-chah-nulth First Nations serves as a particularly revealing example of how such "analytical reach" is essential in co-management research.[4] Without the socio-political and historical context one could not understand how a uniquely *empowered* form of co-management developed. Without a sense of indigenous-settler relations that shaped the ongoing regional resource conflicts one could not understand how the institutions and relationships empowered via the Agreement could develop and endure as they did. Without an appreciation, in particular, of long-standing Nuu-chah-nulth negotiation and knowledge practices one could not comprehend the range of goals and relations emerging by means of the process, or the richness of the linkages amongst their social, political and environmental dimensions.

In the process of documenting Nuu-chah-nulth perspectives on the impacts of this co-management agreement, the value of analytically emphasizing the connections between local, resource-driven issues and the broader socio-political concerns of Aboriginal co-managers in Clayoquot Sound emerged with great clarity. Indeed, the two opening statements are representative of the views expressed by Nuu-chah-nulth leaders and participants during the interview process as well as at meetings of the co-management board. Their words reflect the significance of developing co-management regimes that provide a means of recognizing and negotiating the interlinked enviro-socio-political dynamic that characterizes Nuu-chah-nulth understandings of resource management. These understandings, in turn, inform many of their claims against Canadian governments.

Thus informed by Nuu-chah-nulth statements regarding the Interim Measures Agreement (IMA), this analysis illustrates how a co-management arrangement that allows indigenous participants determinative authority in the decision-making process provides the means to address certain long-standing issues between an indigenous people and Canadian governments. I focus here on the important theoretical and practical insights Nuu-chah-nulth comments reveal concerning, first, politics as power-sharing, secondly, broad-based systemic change in indigenous-state relations, and thirdly, the mobilization of indigenous rights claims at the local level. Acting as the institutional and processual means to these key socio-political ends, empowered co-management thus represents a promising arrangement for shifting Aboriginal-state relations from paternalism towards effective partnership.

Effective Power-Sharing? Incorporating Analytical Reach into the Study of Co-management

Briefly stated, the process of incorporating analytical reach into co-management research reflects the need for a clearer consideration of the political and social outcomes of joint resource management as these relate to co-managers' interests. As became clear in Clayoquot Sound, this is closely linked to the issue of power-sharing, which "effective" co-management not only requires, but creates, when it is successful.[5] Having said that, the reality is that provisions for power-sharing in co-management vary widely, most noticeably with respect to the decision-making authority accorded indigenous co-managers. Most co-management arrangements that involve indigenous peoples are designed as measures of "consultation," inasmuch as they legally designate "advisory'" status to the co-management board. This does not involve indigenous participants in the process of decision-making with any substantive or legally binding authority and often results in the continuation of conflict and deterioration of the resource(s) (Berkes 1989; Berkes, George and Preston 1991; Feit 1988; Hoekema 1995; Ivanitz 1996; Mulrennan 1994; Weiner 1991).

The consideration of analytical reach emerged commensurately from two sources. On the one hand, Nuu-chah-nulth statements concerning the benefits of Clayoquot co-management suggested unique perspectives on the significance of co-operating with government in resource management issues. While they were concerned with protecting the ecosystems and resources of their traditional lands, this perspective was framed in terms of a concern for the political mechanisms that would allow them to effectively undertake such protection: devolution of decision-making authority and the implementation of indigenous rights chief among them. The co-management provisions of the IMA are considered to meet some

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of those concerns. As Stephen Charleson, an IMA nego-tiator for the Hesquiaht noted:

One of our rights that the IMA has brought to the fore is that we have a place at the table and we have a big voice and we have all the knowledge about resources that's been passed down from generation to generation. We have something to say about how things go in Clay-oquot Sound. We have the right to be consulted, and we have the right to make informed decisions. Before we didn't have that right. In the past...consultation to the Province was a phone call or a letter saying that this is what they're going to do, and "as per our consultation policy, consider this letter as the consultation"...Now it's a lot more than that. It's one of the rights that we have as a people, to be consulted in what happens in our back yards and in our front yards and all around us. [With co-management] what we wanted to do was to flip all of that, put it up in the air, and we'd be on top. We'd be the decision makers and all of these things would go according to the way we say it's going to go, and at the end of [the negotiations] we were confident that it was a start....Everything had to flow through the Central Region [co-management] Board.[6]

Charleson's thinking reflects a broadly held view among Nuu-chah-nulth that resource protection and political engagement are mutually supportive.

On the other hand, as I have indicated above, a common analytical theme in the literature on co-management in North America argues that the resolution of conflicts iden-tified as contributing to a resource crisis is linked to more effective management of the resource through increasing resource users' involvement in the management process (Finlayson 1994; Hoekema 1995; Pinkerton 1989; Usher 1986). Consulting with the stakeholders (often including Aboriginal peoples) at the "bottom'" would temper the resource-centred failings of state-driven, "top-down'" man-agement regimes.[7] The socio-political element (users' par-ticipation) was generally considered to serve the greater environmental goal (improved resource management); reduced stakeholder conflict led to enhanced ecosystem health. This was evident in case studies from British Colum-bia, Alaska, the Yukon, Ontario, Quebec, and Newfoundland (Berkes 1989; Berkes, George and Preston 1991; Feit 1988; Finlayson 1994; Shaffer N.d.; Usher 1986; Weiner 1991; Yupitak Bista 1976). There has been little specific consid-eration of the ways in which joint decision-making regimes might act to augment the determinative power of the "bot-tom end" co-managers vis-à-vis the state, a significant question where Aboriginal stakeholders are involved. Cer-tainly, the link between the ecological and the socio-politi-cal in analyses of co-management across a variety of con-texts has been considered. Usher argues that resource management should be approached as a practical exercise that, ideally, should meet several public policy objectives: "these include legal or human rights, economic efficiency, social and economic equity, as well as conservation" (1986: 69). Binder and Hanbidge remark that co-management involves issues such as "institutional structures and para-digms, internal and external conflicts, questions of equity, effectiveness and efficiency, and the enforcement and main-tenance of interests and rights" as well as the sustainable management of resources (1994: 121). Pinkerton (1989) similarly observes co-management's potential for address-ing a spectrum of extra-ecological issues which enhance the primary resource-oriented objectives. These "secondary" benefits include reducing conflict through participatory democracy, community-based development and decentral-izing decision-making. Finally, Nakashima asserts that in evaluating co-management "it is important to consider the extent to which it fulfils the aspirations, not only of state managers, but also of Native peoples" (1994: 99). Moreover, researchers have increasingly recognized the connection between the level of power-sharing negotiated in a co-man-agement agreement and the successful implementation of its management decisions, and advocated some form of power-sharing for local users participating in co-manage-ment, particularly if they are indigenous peoples (Berkes, George and Preston 1991; M'Gonigle 1988; Usher 1986).[8] Such early research is useful in inspiring further investi-gation that identifies *which* Aboriginal aspirations are involved in the negotiation of co-management and *how* they are, or may be, fulfilled through various power-shar-ing provisions in these agreements.

It is broadly understood that co-management is not a "simple'" environmental issue, for the very environment it seeks to manage is itself a socialized and politicized landscape. Like indigenous peoples elsewhere, for Nuu-chah-nulth, the ecological *is* socio-political; such issues are not divisible. This could also be argued for non-Abo-riginal stakeholders in Clayoquot Sound, the most obvi-ous example being the activities of local and international environmental groups whose politicization of landscapes and resources is well documented (Berman 1994; Car-ruthers, Backus, Mertens and Lackey 1997; Dorst 1990). As Aboriginal peoples' and researchers' views empha-size, co-management involves negotiating different cul-tural perceptions of the environment, understandings which are linked to the political interests and aspirations for Aboriginal and non-Aboriginal peoples alike (Feit 1988, 1998; Goetze 1998; RCAP 1996). In Clayoquot, the act of including indigenous users in a legal and institutional framework of devolved decision-making authority over

traditionally claimed resources forwards several key Nuu-chah-nulth socio-political claims within the state, including governance of their territories and resources, protection of cultural heritage sites, and pursuit of traditional harvesting activities (NTC 1991). For example, Ahousaht *Ha-wiih* Howard Tom explained how "the land and its resources always belonged to the Chiefs, and the positions of all First Nations throughout the Nuu-chah-nulth area—and that's the first item you'll see on the negotiating table—is that resources belong to the *Ha-wiih* of the Nuu-chah-nulth people. It's always been that way, as far back as they can remember."[9] Negotiating a resource management agreement with the Nuu-chah-nulth thus necessitates the recognition of their traditional structures of governance in which Hereditary Chiefs were responsible for the management and distribution of lands and resources for their communities.

As Nuu-chah-nulth consistently pointed out, co-management as negotiated in the IMA acts a catalyst for addressing a spectrum of socio-cultural, political and legal issues that are significant in their own right, beyond the managerial challenges of contested resources, yet firmly enmeshed in those processes.[10] In this sense, the Clayoquot experience is somewhat different from that in some other regions of Canada where co-management regimes have been used as forms of co-optation, means of securing or allocating sovereignty among governments, or means of exclusion in practice (Feit this volume; Nadasdy 2002; Scott and Webber 2001).

The Clayoquot experience presents an uncommon opportunity for an inquiry into broader socio-political implications because the Central Region Board (CRB), the institutional structure that co-manages the resources of Clayoquot Sound, was designed to provide Nuu-chah-nulth with the structures and processes of an *empowered* co-management regime. As I explain below, according to Nuu-chah-nulth, this means that it has facilitated the process of advancing their aspirations concerning political and structural equity, or "systemic change," and the protection and practice of indigenous rights. This paper is therefore focussed on examining the conditions that make the exercise of Aboriginal power through co-management both more likely and more effective.

Nuu-Chah-Nulth Perspectives: Resources, Relationships and Responses

Nuu-chah-nulth approaches to the use and management of resources and their historical experience of European contact and colonial expansion inform their contemporary responses to state control over traditional territories and resources. A brief review of these experiences reveals a rich history of political organization and strategizing in which Nuu-chah-nulth have made repeated efforts to re-negotiate their relationship with the Canadian state. Negotiating the IMA, then, is best understood as another step in a long-standing process aimed at gaining authority over the use and management of Nuu-chah-nulth lands and waters.

As with many Northwest Coast communities, the abundant marine and forest resources available to Nuu-chah-nulth contributed to the evolution of a complex culture that enjoyed consistent material abundance. In the past, Nuu-chah-nulth were whalers, and they continue to rely heavily on marine resources such as salmon, shellfish and roe for subsistence and commercial purposes. In addition to subsistence hunting and trapping of forest animals, gathering forest resources such as plants, roots and berries for food, medicine and ceremonies continue to be important activities. As before, the temperate rainforest provides trees for woven bark items, dugout canoes, boxes and paddles. For Nuu-chah-nulth, the forests and waters of Clayoquot Sound were and still are the source of food, medicine and history; they provide sustenance, education and a connection to the spiritual world.

Historically, Nuu-chah-nulth management of natural resources was closely tied to social and political organization. Nuu-chah-nulth resource use and management strategies are based on two central concepts: *hishuk ish ts'awalk* and *hahuulhi*.[11] *Hishuk ish ts'awalk* (translated as "everything is one") represents the Nuu-chah-nulth respect for and belief in the sacredness of all life forms, and the "oneness" between humans and the environment. It is the belief that all life is sacred and deserving of deep respect, which is understood as the principles of conservation and protection in relation to the earth. It is the ideological foundation for their approach to responsible stewardship. This stewardship is based on a system of land tenure known as *hahuulhi* (translated as "private ownership"), a system of hereditary ownership and management of resources. According to elder and *Ha-wiih* Roy Haiyupis, *haahulhi* is "the key to the social and cultural practices, tribal membership and property ownership, economical, environmental and resource controls to promote effective enhancement levels to sustain life for the tribe today and for generations to come" (Haiyupis, 1988c: 1 in Scientific Panel 1995: 9). A *Ha-wiih* (Hereditary Chief) inherits his *hahuulhi*, and is responsible for managing the resources within it in a manner that provides for the continued well-being of his *mus chum* (tribal members) and their future generations. Territorial boundaries were continually reaffirmed in the songs, dances and painted curtains that are an integral element of Nuu-chah-nulth

gatherings, and current *Ha-wiih* can indicate the boundaries of their *hahuulhi* on a map.

Coupled with strong traditions of managing their lands and resources, Nuu-chah-nulth have a long history of interaction with non-Native actors. Within these relationships, they have consistently sought to build, maintain, or reinforce their leverage vis-à-vis the relative power of others. These actions can be traced back to the economic partnerships of the fur trade. Beginning in the 1770s, European interests focussed on the profits that the sale of sea otter pelts made possible, drawing coastal peoples into trading relationships, alliances over which Aboriginal partners exercised a significant amount of control. Nuu-chah-nulth were among the first groups involved in the fur trade on the north Pacific coast, during which they "vigorously asserted their demands," resulting in the observation that they were "expert and skilful traders" (Fisher 1992: 4). Nuu-chah-nulth were known for their bargaining abilities, negotiating with confidence in a manner that forced their European counterparts to modify their trading methods to accommodate Nuu-chah-nulth protocol in order to secure the exchange relationship. As years passed, Nuu-chah-nulth leaders such as Maquinna and Wickaninish were recognized as among the most powerful trading chiefs on the coast, developing long-standing ties with Spanish and English traders. These associations were strengthened by marriages to traders, furthering the alliance between European and Native trading partners. Overall, Nuu-chah-nulth traders resisted various Europeans' attempts to subjugate their interests during the fur trade era, which proved to establish a mutually beneficial reciprocal relationship, while producing the capital accumulations desired by Europeans (Fisher 1992; Gunther 1972; Innis 1956).

By the late 1850s, the fur trade had ended, and the focus of non-Native activity shifted to consolidating European settlement on the island, which was accomplished by the end of the 19th century. Unlike traders, the more numerous settlers sought to establish a permanent economic, political and socio-cultural presence, a mission that did not require Aboriginal involvement. A few years after the establishment of the colony of Vancouver Island in 1849, Governor James Douglas undertook the purchase of 14 small segments of land from particular tribes living around three major settlement areas along the south and north east coasts of the island. The aim of these reserved areas was the protection of both settlers and tribes from potential conflicts over areas available for occupation and use. Based on a European conception of land tenure, only areas of visible use and occupation by tribes (i.e., villages and cultivated fields) were purchased.

Tribes were free to continue to hunt, fish and trap in other areas. The availability of such lands quickly diminished, however as increasing numbers of settlers bought land traditionally used for Aboriginal subsistence activities. In occupying areas and accessing a wide range of resources once dominated by Aboriginal users, settlers' growing incursions into traditional territories created increasing displeasure among Aboriginal peoples, and resulted in demands for the recognition of Aboriginal title and political autonomy via the negotiation of comprehensive treaties. The early decades of the 20th century brought awareness among Northwest Coast Aboriginal peoples of the need to politically organize themselves in response to the activities of the settler state (Fisher 1992; Tennant 1990).

Nuu-chah-nulth participated in this process as settlement activities moved into their territories. In the 1930s, the Nuu-chah-nulth were, albeit modestly, involved in the activities of the Native Brotherhood of British Columbia, which was formed after the collapse of the Allied Indian Tribes of British Columbia, whose land-claim activities had been outlawed in 1927. Over the subsequent decades, Nuu-chah-nulth participation increased as the Brotherhood forwarded grievances, including demands for increased recognition of Aboriginal rights relating to traditional resources activities off reserves. At the Brotherhood's annual assembly in 1958, the Nuu-chah-nulth formed their tribal council, naming it the Allied Tribes of the West Coast. Changing its name to the Nuu-chah-nulth Tribal Council (NTC) in 1973, the group played an important part in the emergence of broad-based tribal groups organized to raise issues and assert various claims against the Canadian state. The NTC represented a departure from state-dominated definitions of Aboriginal identity, issues and political organization in that its founding was inspired by indigenous perspectives and priorities. Prior to the formation of these tribal councils, neither state legislation nor state administrators recognized the existence of tribal groups (Ponting 1997; Tennant 1990). The creation of tribal councils marked a return to the traditional basis of Aboriginal social and political organization in coastal British Columbia. Together with the Nisga'a Tribal Council, the NTC became one of the most powerful and influential Aboriginal lobbying organizations at both the provincial and federal levels, actively shaping Aboriginal peoples' visions of themselves and their relation to the state (Kopas 1972; Tennant 1990).

In the mid-1970s, the Ahousaht Nation's increasing opposition to logging in Clayoquot Sound led the NTC to launch the NTC Forestry Program, which involved an in-depth study of forestry issues in the area, and resulted

in an augmented level of co-operation between forestry companies and Nuu-chah-nulth Nations (Cassidy and Dale 1988). Conflicts involving issues of resource use, such as damage to streams from logging debris, were addressed through negotiations. Contracts to repair such damage were often forwarded to newly formed Nuu-chah-nulth companies. A forestry committee was also formed to advise the NTC's forestry manager and inter-act with companies on a consultative basis, though only relating to activities on reserve lands. At the time, it was "one of the most comprehensive forestry initiatives under-taken by a Native group in the province" (Cassidy and Dale 1988: 110).

The need to settle matters of governance and man-agement of resources in off-reserve lands became a cen-tral issue of the Nuu-chah-nulth land claim in the next decade. The NTC's formal claim to their traditional ter-ritories covering the west coast of Vancouver Island was accepted by the federal government in 1983, and they entered the treaty process in 1994. The philosophy behind the Nuu-chah-nulth claim is that, while they aim to ensure the recognition and protection of their Aboriginal rights to resources and self-governance, a fair settlement will be based on sharing those resources with non-Native inter-ests within a co-operative decision-making framework (Goetze 1998). As a part of this treaty process, the nego-tiation of the IMA reflects Nuu-chah-nulth Nations' lengthy historical experience with co-operation, resist-ance and negotiation as means to forwarding their inter-ests in relations with powerful economic and political actors.[12]

The Road to Clayoquot Co-management

The context for negotiating co-management in Clayoquot Sound was also influenced by British Columbia's historical approach to resource management and land use planning. Management of the Sound's primary resource, old-growth temperate rainforests, was subject to multinational forestry corporations' pursuit of short-term profit through maxi-mally efficient extraction with little interference from the government. The Province's objective was to encourage economic development and job creation (Drushka 1993). Indeed, maximizing timber production was the "traditional role" of the Ministry of Forest's (MOF) Forest Service (CORE 1994: 17). In the 1970s, the provincial government made an effort to promote sustainability in extraction activ-ities, but the economic recession of the early 1980s saw a further relaxation in forest management guidelines.

Henceforth, compliance with forestry guidelines designed to protect other resource values, such as salmon spawning streams, recreation activities and tourism, was left largely to the goodwill of the forestry companies who held extraction licences. As a result, community consul-tation was cursory, and MOF's policy regarding First Nations' consultation, participation and protection of rights was only marginally acknowledged by licensees, if at all. According to Richard Lucas, a Hesquiaht negotia-tor, at that time, "participation" in the forest manage-ment process meant that, "we were told what was going on, and then a lot of times we weren't even told. We'd be sitting there and then see people moving in with logging equipment, and that. You never knew what was going on." The political and economic incentive for greater tim-ber extraction meant that both industry and government routinely ignored enforcing provisions for consideration of such values (Pinkerton 1997). By the government's own admission, this approach to resource management was unsustainable (M'Gonigle and Parfitt 1994). In 1992, a new provincial land use strategy was developed, which included initiatives to increase protected areas, develop new forest practices legislation, and promote forest renewal in British Columbia.[13]

In Clayoquot Sound, local ramifications of such reg-ulatory failures were described in numerous of my inter-views with Nuu-chah-nulth and non-Native residents alike: a MacMillan Bloedel clearcut threatened the Village of Tofino's water supply; countless sites of cultural and his-torical significance to Nuu-chah-nulth were destroyed; and there was the popularly observed fact that the major-ity of salmon streams in the Sound were now dormant. Furthermore, as Tla-o-qui-aht negotiator, Francis Frank, explained, the limited consultative provisions that existed did not provide Nuu-chah-nulth with the ability to par-ticipate in the process of decision-making that concerned the resource base of their territories: "Throughout the years, our voice and involvement in management decisions was totally nullified....In years gone by [there] were pri-marily advisory committees, and that's the only capacity in which they could function. They couldn't make decisions. Decisions were made by Ministers and bureaucrats in Victoria."

Significant public protest against what was seen as unfettered logging in Clayoquot began in 1980, when MacMillan Bloedel announced its intention to begin logging on Meares Island.[14] Nuu-chah-nulth leaders denounced the proposal, citing the spiritual significance of the island to the Tla-o-qui-aht and Ahousaht First Nations and their out-standing land claim over the area. In 1984, when MacMil-lan Bloedel workers arrived on Meares Island to begin log-ging operations, they were met by a blockade of Nuu-chah-nulth, local environmentalists and other sup-porters. Meares Island was declared a Tribal Park. In

response, MacMillan Bloedel sought and won a court injunction to clear the blockades. In 1985, however, the Tla-o-qui-aht and Ahousaht First Nations won their own injunction to stop the logging on Meares until Nuu-chah-nulth land claims had been addressed in a treaty. Similar protests continued in Clayoquot Sound throughout the late 1980s, often involving the blockading of logging access roads.

These protest actions culminated in the summer of 1993, when tens of thousands of Canadians, together with Nuu-chah-nulth and local residents, participated in a previously unprecedented scale of protest in Canada over the existing and proposed resource use policies for Clayoquot Sound. Over 800 citizens were arrested as a result of these protests. To further capture the provincial government's attention, Nuu-chah-nulth allied themselves with the Natural Resources Defence Council, an influential environmental group headed by Bobby Kennedy Jr., and embarked on an intense lobbying campaign in the USA. The resulting publicity, both in the USA and globally, together with the subsequent cancellation of numerous lucrative timber and fibre contracts with American and European companies, provided the economic and political pressure needed to bring the Province to the negotiating table.

Even from a brief summary of the events that led to Clayoquot co-management, the politicization of the central ecological issues is clear; for the Nuu-chah-nulth as well as local citizens and environmentalists concerned, the social, political and ecological issues were fused in a mutual desire to gain increased local control over Clayoquot resources, and cannot be considered exclusive of one another. It is in this context that the agreement establishing Clayoquot Sound co-management was negotiated and subsequently implemented.

The *Interim Measures Agreement for Clayoquot Sound*: An Empowered Co-management Model

The 1994 *Interim Measures Agreement for Clayoquot Sound* was the direct result of these protests as well as the consistent lobbying efforts of the Nuu-chah-nulth for recognition of their land claim.[15] The Agreement was negotiated over a period of several months, during which time Nuu-chah-nulth negotiators threatened to walk out because of government unwillingness to negotiate the devolution of authority Nuu-chah-nulth desired (Goetze 1998). Persistence and strategic negotiation resulted in an agreement that goes beyond addressing the pressing managerial issues (e.g., stakeholder access and conflict,

sustainable use and ecosystem health) concerning the use of resources in Clayoquot Sound. The IMA also recognizes many key political claims of Nuu-chah-nulth that are inherently tied to resource management: the traditional Nuu-chah-nulth structure of governance; the authority of the *Ha-wiih;* the government-to-government relationship between First Nations and British Columbia formally recognized by the Province in 1993; and the need to incorporate Nuu-chah-nulth perspectives and respect their resource interests in jointly managing the area.

IMA provisions concerning resource management centred on the creation of a new, co-operative management institution, the Central Region Board, with equal Nuu-chah-nulth—provincial representation. As part of the co-operative management of the terrestrial and marine resources in the Sound, with the exception of ocean fisheries, the Board reviews all resource use and development proposals.[16]

The key power-sharing feature of the Agreement governing the Board's decision-making activities is that, should voting be necessary, a *double majority* clause would come into effect. As understood by Nuu-chah-nulth, this means that a majority of Nuu-chah-nulth as well as a majority of all CRB members is required for a decision to pass. As the Province understands it, a double majority requires a majority of both Nuu-chah-nulth and provincial—in reality, local—representatives.[17] Either way, the clause gives the Nuu-chah-nulth participants effective veto power over any Board decisions. Board members agreed at their first meeting, however, that the CRB would make its decisions by consensus, a format that most Board members believed to be more inclusive, and one that is consistent with traditional Nuu-chah-nulth decision-making practices.

The legal caveat to this power, common to Aboriginal-state agreements, is that the Province retains ultimate statutory authority, meaning Cabinet may overturn CRB decisions. Should this occur, however, the Central Region Resource Council (CRRC), composed of Nuu-chah-nulth *Ha-wiih* and provincial Cabinet Ministers, would be gathered. The CRRC's role is to conduct a public inquiry into government reversals of Board decisions. Given the continuing volatility of resource issues in Clayoquot Sound this is a situation the provincial government would generally rather avoid, providing an additional degree of leverage for Clayoquot co-managers in the decision-making process.

Thus, in practice, the IMA gives Nuu-chah-nulth co-managers tangible, determinative authority to *make decisions* about resource use in Clayoquot Sound. While CRB decisions may not be *legally* binding, they are most cer-

tainly, and demonstrably, *politically* binding. The importance of this significant level of *de facto* authority which the CRB wields in addition to its *de jure* authority, is founded in part in Nuu-chah-nulth members' capacity to constrain any cavalier behaviour on the part of the Province in the process of implementing Board decisions. Given that there have been complex and contested resource use decisions before the Board, it is noteworthy that since its inception in 1994, the double majority has not been invoked by the CRB, nor has there been an attempt to reverse any of its decisions regarding resource management and land use in Clayoquot Sound.[18]

The presence of the Board's "veto'" element is unique to this co-management agreement in Canada and it is this powerful provision that, along with recourse to the CRRC, moves the IMA beyond consultation to what may be termed substantive power-sharing. Despite the Province's statutory authority, the IMA gives Nuu-chah-nulth members determinative *de jure* authority and significant legal and political leverage in the decision-making process; the IMA provides for a co-management model in which Nuu-chah-nulth members can effectively exercise decision-making authority concerning their resource-oriented interests.

In making its decisions, the CRB receives most of its referrals from the Ministry of Forests (MOF) and the Ministry of Environment, Lands, and Parks (MELP). Up to 1998, when this study was completed, consensus decisions had been reached on referrals within the 30-day timeframe stipulated in the IMA. Of the forest harvesting applications the Board has reviewed, all had been approved, but modifications were made to many. For instance, the modifications to many MOF referrals involved demanding stricter compliance with new management guidelines, which include: ensuring the integrity of biodiversity in a cutblock to be logged; completing inventories and maps of medicinal plants, sacred sites and culturally modified trees important to Nuu-chah-nulth within areas to be harvested; and increasing opportunities for skills training and economic development for local people, especially Nuu-chah-nulth.[19] Many referrals from the Lands branch of MELP on wildlife management, foreshore development and aquaculture have also involved conditional approval; a few have been deferred due to a lack of information and others denied.[20] Clearly, critics' suggestions that the CRB is merely rubber-stamping government initiatives for resource development are misplaced. Toquaht *Ha-wiih* and CRB member, Bert Mack, suggested that CRB co-management initiated a significant improvement in the level of his inclusion in decisions that affect his territories:

> The Province ['s representatives] come to me when it has to do with any form of, say for instance, an economic development that is to be placed in my territory....Also, the logging companies. If they find anything that has to do with our traditions and our culture in the forest, they'll come and report to me and let me know what they've found.

In the process of reaching decisions regarding management and planning for the resources of Clayoquot Sound, the Board must integrate considerations for economic development and socio-cultural issues. In addition to efficiently managing the resources of the Sound, the CRB is charged with, and has had success in encouraging, conciliation between stakeholders in the Sound, protecting Nuu-chah-nulth rights, and developing opportunities that support economic diversification in the Clayoquot region. In pursuing the goal of creating viable and sustainable communities as well as a viable and sustainable use of the resource base, the CRB "strives to see a broad picture when considering issues. The social, economic and environmental concerns of local communities are addressed in the review of each proposal and application that is brought to the CRB" (CRB 1996a: 2).

The successful operation of the CRB has not, of course, been without challenges. In its first four years of operation, the CRB had not yet developed an overall strategy to guide its operations. Indeed, at this time, most of the Board's energy was directed towards discussing and responding to referrals it received, such as applications for logging permits. During interviews, some representatives argued that the CRB was focussing too much on short-term issues at the expense of dealing with long-term transition processes such as economic diversification, reducing Nuu-chah-nulth unemployment and developing plans for viable forestry in the Sound. Another area of difficulty noted by some Board members was the nature of the consensus decision-making process, which they felt to be a tedious and time-consuming one compared to voting. This, in combination with the complexity of the new resource management regulations, means that co-management has proved to be a slower, more costly and more administratively complex process than the standard top-down state management model. Finally, some community members identified the CRB as the reason for the reduction in logging and the accompanying loss of jobs in the region, although decisions to shut down operations are made by logging companies independently of the CRB's actions. This reflected the low level of community awareness concerning the function and objectives of the CRB. A similar level of ignorance on the part of government bureaucrats regarding the CRB's mandated operations

and scope of authority has resulted in delays in implementing Board decisions, a situation compounded by Cabinet's failure to encourage timely compliance with CRB decisions.

Regardless of its difficulties, the introduction of the CRB has provided several benefits to local Nuu-chah-nulth and non-Native communities. First, it has seen considerable progress being made in incorporating other forest values besides timber production in managing the forests and other natural resources of Clayoquot Sound since 1994.[21] For example, Nuu-chah-nulth Elders will walk a proposed cut-block with forestry representatives to ensure cutting does not compromise areas of cultural significance. This is also noticeable in the incorporation of Nuu-chah-nulth members' traditional knowledge in CRB decisions that, in turn, govern forestry activities that take place on their territories.

Secondly, the CRB is an institution that provides a substantial increase in local control over local resources for all communities in Clayoquot Sound. Ahousaht *Hawiih*, Nelson Keitlah, former co-chair of the CRB suggested that, "the uniqueness of what we did was the creation of the CRB involving non-First Nations. I think that's the absolute uniqueness, where we all get together and sit around a table in a meaningful way and try to reach an objective." By involving both local non-Native and Nuu-chah-nulth representatives in shared resource management, the CRB is inclusive of other local stakeholders in the management process. This, in turn, has facilitated the process of relationship-building, reducing the level of conflict between stakeholders. In Ucluelet negotiator, Larry Baird's, words: "Three years ago, four years ago [in 1993] it was kind of like a simmering pot, Clayoquot Sound. Occasionally it would boil over. And now...I think it's on low. It's not even simmering. It's lukewarm. Which is good!"

Thirdly, the CRB has allowed for unprecedented co-operative relationships to develop between Nuu-chah-nulth and local representatives. Bob Mundy, a CRB member representing the Ucluelet, reflected on this process:

> Our whole scheme in the CRB is that we wanted it to be the people's choice, whatever they wanted, how they wanted things to happen. We wanted the communities to feel that they had a part in decisions....So, that's basically how we handled a lot of different things here, to try and pull people together because...the [non-Native] community is supposed to be a part of it, along with First Nations. I think we've helped to pull people together, in fact. I think it's a good thing, because if we're going to work together then we have to pull together....As we've always stated, we're not going any-

> where and probably some of the people that live here now aren't going anywhere, so we have to pull together and make some decisions together, for the good of the land and for the good of everything. Whether it's fishing, logging, or whatever it is, we have to pull together to get the best interests of all the people.

According to this perspective, the foundational impetus for the operation of the CRB is one of negotiating and mobilizing mutual interests wherever possible. The success of this co-operative spirit is evidenced in the consistency with which the Board has been able to reach consensus-based decisions, at times over highly contested issues that have been the source of conflict in the past.

Finally, the veto provision of the IMA profoundly augments the level of practical control the Nuu-chah-nulth may exercise over the management of resources on their traditional territories. It effectively devolves a measure of state authority to the local level in a manner that advances Nuu-chah-nulth aspirations for power-sharing, partnership-oriented arrangements with the Canadian governments. This is *empowered* co-management. It is so termed as it exceeds the advisory powers co-management regimes typically allow indigenous participants to practice. This is not to imply that such co-management "gives power" to "powerless" Aboriginal co-managers. Rather, it is empowering in that it facilitates the exercise of power historically held by Aboriginal peoples in managing their resources as autonomous nations. As described by Stephen Charleson, for Nuu-chah-nulth, this means that the CRB provides them with unprecedented leverage in the decision-making process: "Before [the CRB] a lot of the things that we were trying to stop weren't slowed down. All we could do was beg and plead and yell and scream, and there was no action. Now, with this IMA...we have something in our back pockets that the Province has signed, and...whether they like it or not, they have to listen to us, and...do some things that they weren't prepared to do before." Larry Baird adds that the CRB "gives recognition and gives us a seat at many tables where we're being discussed, as opposed to, "Well, we think this is good for them." I never did like that. I would no more profess to know what is good for you and I wouldn't make that determination. And I wouldn't expect you to accept anything like that." In sum, empowered co-management both recognizes Aboriginal authority over traditional territories and allows for its effective exercise in practice.

Having reviewed the managerial activities of the CRB, as well as the challenges and benefits of such empowered co-management practice, further analysis will highlight the broader socio-political implications of the Clayoquot model. As the next two sections reveal, gaining such a

measure of decision-making authority in the co-management process has allowed Central Region Nuu-chah-nulth to redefine their relationship with the state while protecting and asserting their Aboriginal rights.

Co-management, Confidence-building and Systemic Change

Realizing significant changes in minority-state relations in liberal-democratic state systems typically involves structural changes, such as constitutional amendment, or mutual recognition of rights through treaties and agreements that fundamentally alter the dynamic of interaction between the state and a group demanding a heightened status within it. As such, systemic change as it is used in this analytical context involves the fundamental restructuring of the relationship between indigenous peoples and liberal-democratic governments, specifically in terms of the distribution of power. This is a forbidding prospect for most, if not all, governments.

In Canada, the drive for such restructuring of the state-indigenous relationship centres on Aboriginal peoples' demands to shift relations from the paternalistic colonial vestiges of the past to a government-to-government, nation-to-nation relationship based on respect and partnership (RCAP 1996). As noted in the Report of the Royal Commission on Aboriginal Peoples, while Canadian governments are "coming gradually to accept the idea of shared sovereignty and Aboriginal self-government, they have been loath to hand over the full range of powers needed by genuinely self-governing nations or the resources needed to make self-government a success" (RCAP 1996: 25). In other words, both the federal and provincial governments are "using the phraseology of Aboriginal self-government, but denying its substance" (Penner 1987: 22-23). The notion of empowering Aboriginal peoples is viewed as possible only at the sufferance of the state, and as such, it has been limited to delegation of administrative authority, as opposed to the negotiation of legislative powers.

This explicit reluctance, along with a long history of troubled relations between Aboriginal peoples and successive governments, represent some of the most significant impediments to mobilizing such a relational shift in the Canadian context, as in other settler states.[22] The resulting reality is that attempts at negotiating new relationships must contend with a firmly entrenched legacy of suspicion and distrust. As elsewhere, in Clayoquot Sound, Aboriginal peoples suspect governments' capacity to negotiate in good faith, and to share power beyond the tokenism of delegated municipal authority. Governments continue to doubt Aboriginal peoples' capacity to make sound decisions and to limit their claims against the state. Needless to say, this lack of trust, or "crisis of confidence," profoundly limits the progression towards negotiating power-sharing relationships with Aboriginal peoples in Canada.[23] In such an atmosphere, the first objective must be to build confidence, a process which ultimately seeks to "transform [hostile] relationships into more cooperative ones" (Richter 1994: 81). Only when a minimum level of mutual confidence has been established can serious restructuring of a relationship occur.[24] My evaluation of Clayoquot co-management includes an examination of the potential for veto-based joint management arrangements to address such crises of confidence by enhancing confidence between participants.

As suggested above, Nuu-chah-nulth experiences with Canadian governments both historically and more recently have done little to foster relations characterized by confidence or mutual trust. Indeed, the lack of trust between Nuu-chah-nulth, state representatives, local stakeholders and the forestry industry is fittingly described as a "crisis of confidence." It is interesting then, that several Nuu-chah-nulth interviewees indicated that the IMA has acted as an interim measure, not just in the literal, legal sense, but as a political middle ground: though the power-sharing relationship is limited to an institution defined by the state, the provisions of the Agreement allow the state to experience power-sharing with First Nations, while affording Nuu-chah-nulth a degree of the autonomy they ultimately desire with a broader treaty.

On the one hand, the presence of the double majority clause regarding CRB operations represents a successful negotiation of greater decision-making power for First Nations. Bob Mundy, explained that with the double majority clause, "if we have to, we have that veto power within our reach....We're able to say no to something that we don't like and [we're] able to make sure that it doesn't happen...we have the power to do that." At the same time, the Province can maintain it has not given up any of its statutory authority. On the other hand, the fact that the veto element of the IMA has never been used has both surprised and assured government representatives and local communities, who feared the Nuu-chah-nulth would invoke it readily and indiscriminately. That the Agreement was extended in 1996 and again in 1999 further augmented the Nuu-chah-nulth sense of confidence in negotiating a more autonomous relationship with the government of British Columbia.

Tensions still remain, primarily between Nuu-chah-nulth and the Province but also between local stakeholders and forestry corporations. Yet most conflicts may now

be negotiated within the co-operative framework of the CRB. In providing such a space for discussion, co-management allows for a period of adjustment or confidence-building for governments, First Nations and local communities to be affected by the changes the broader NTC treaty will bring. As suggested by Stephen Charleson:

> [The Interim Measures Extension Agreement] is the second generation of a negotiated agreement that the Premier signed on behalf of the provincial government [with our] Hereditary Chiefs....So, their honour's at stake, you know, if they don't honour this IMA, what do we have to look forward to in their treatment of a treaty, the Province and Canada? There's not much to look forward to if something like this, a small step in the huge plans that we have, if they don't honour that.... And what this also accomplishes is that in this period in Clayoquot Sound [the CRB] acclimatizes the rest of the population of BC on how things are changing. They're going to change when treaty's signed, and they're going to be implemented. There are a lot of attitudes and ideas of First Nations that they're going to have to throw out the window.

The IMA introduced a new partnership-oriented decision-making institution that encourages dialogue between Nuu-chah-nulth, government representatives and local communities. As noted above, the CRB has facilitated the development of more positive and constructive stakeholder relationships within a structure of co-operative power-sharing between First Nations and the provincial government.

Elder Nelson Keitlah believes that "power is going into the hands of the people that should have had the power to begin with." Keitlah's sentiment was echoed by many Nuu-chah-nulth whom I interviewed, who see this context of a power-sharing partnership as a significant shift from the state paternalism they have historically experienced. Indeed, several Nuu-chah-nulth Nations outside of the Central Region consider the CRB a desirable model for resource management of traditional territories as a part of the new treaty structures. This continuity would certainly ease the transition to a post-Treaty environment in Clayoquot Sound, given the familiarity with sharing decision-making authority the IMA has made possible.

With Nuu-chah-nulth themselves identifying the confidence-building capacity of the CRB when questioned generally about the benefits of CRB co-management, the political mechanisms and implications of co-management under the IMA take on a new significance. The success of the CRB lies not only in its continued operation as a nego-

tiated arrangement which emphasizes a co-operative relationship between the state and First Nations in a context of joint decision-making regarding the management of highly contested resources. Beyond this, the CRB is an arena of Aboriginal-state power-sharing which is building the confidence of the parties currently negotiating broader legal and political arrangements of self-governance for a group of indigenous peoples encapsulated by the state. It familiarizes the parties to the viability of power-sharing arrangements between Aboriginal peoples and governments. Finally, it reveals that Nuu-chah-nulth are both aware of and pursue strategies that address the "crisis of confidence" between stakeholders.

In sum, from the Nuu-chah-nulth perspective, co-management of resources as negotiated in the IMA provides a means to two key socio-political ends: (1) greater systemic changes in terms of restructuring the relationship between Nuu-chah-nulth and the provincial government from one of monopolized control to one of partnership in resource management decision-making; and (2), establishing confidence in the long-term feasibility of such a co-operative, power-sharing relationship in a more extensive treaty arrangement.

Co-management and Indigenous Rights

The relationship between empowered co-management and the demands for rights made by indigenous peoples within state systems is another issue Nuu-chah-nulth raised in discussing the Clayoquot co-management model. Co-management may be connected to indigenous rights as they relate to ownership or access to resources, and the authority over the resources that ownership confers. Yet the recognition of indigenous rights in legal documents does not necessarily result in those rights being enjoyed by people in their day-to-day lives. Herein lies the problem for Nuu-chah-nulth, as for other indigenous peoples: to what extent do those provisions allow the recognized rights to be *exercised*?

Evaluating co-management regimes from a "rights-in-practice" perspective expands this discussion. This analytical approach understands rights not only as legal categories or features of political discourse but also as tangible activities to be enjoyed in daily life. It is important, then, that rights are both "recognized" and "practiced": they are relevant only insofar as they are part of the *lived experiences* of an individual or group. As Stavenhagen (1994) notes, rights are only *protected* inasmuch as they are *exercised*. Since many indigenous claims against settler states are based on demands for the recognition and protection of certain rights, it is relevant in analyses of co-

management to assess how these institutional arrangements might address these demands. Nuu-chah-nulth statements highlight the ways in which the CRB model achieves two critical goals regarding their Aboriginal rights by facilitating the process of clarifying and engaging rights that remain legally undefined, and secondly, transposing internationally formulated rights declarations to locally exercised rights-in-practice.

As several Nuu-chah-nulth interviewees pointed out, a number of their cultural, political and resource rights are implicitly recognized and protected by the IMA and the operations of the CRB. For example, *Ha-wiih* Howard Tom noted how the IMA is "about sharing of the resource, getting some of the revenue, making sure that it's environmentally sensitive, whether it be forestry or fisheries or mining…it takes in many things, the C[ulturally] M[odified] T[rees]s, the heritage sites, economic development."[25] Stephen Charleson adds that the IMA is significant in that "First Nations' rights to govern themselves are recognized in the [Interim Measures] Agreement where they recognized the Hereditary system [of governance]. That's a huge achievement, you know, that they recognized our form of government." Several of the IMA's general provisions were repeatedly identified as being tied to Nuu-chah-nulth rights claims. These include: the explicit endorsement of the government-to-government relationship between First Nations and the Province; engaging the traditional *Ha-wiih* structure of authority as signatories to the Agreement; the numerous provisions that stipulate the necessity of "incorporating the perspective of First Nations;" and Article 9(d), which states that it is the responsibility of the CRB to "ensur[e] that British Columbia's fiduciary obligation with respect to Aboriginal rights have been met."[26]

Furthermore, Nuu-chah-nulth co-managers and negotiators point to the fact that, one of the CRB's stated objectives is the consideration of "options for treaty settlement for the First Nations," including the "expansion of the land and resource base for First Nations" and the protection of "Aboriginal uses of resources" in Clayoquot Sound. Such considerations speak to Nuu-chah-nulth demands for the recognition of their traditional property rights. Finally, the ability to veto decisions relating to their land and resource interests via the double majority clause is considered, as noted above, a powerful form of rights protection, and an assertion of the right to decision-making authority over traditional territories and resources. This, in turn, addresses Nuu-chah-nulth demands for self-determination within the Canadian state. Cliff Atleo, an Ahousaht negotiator, insists that the IMA plays an important role concerning Nuu-chah-nulth rights: "[The IMA]

wasn't intended to be a panacea for Aboriginal rights definition as it says right up front. [That] doesn't diminish the importance, the level of importance of some of those [rights] that it has touched, because it's a start, and lays some of the foundations for doing that in the treaty."

It must be noted that, as an *interim* agreement, the IMA is not legally or politically designed to address issues of Aboriginal rights, which the parties agree is the domain of the ongoing treaty negotiations also involving the federal government. IMA Article 4 explicitly notes that the Agreement "does not define or limit the Aboriginal rights, title and interests of the First Nations." It therefore appears vague and limited in the range of rights protection its provisions provide. As Atleo's words suggest, Nuu-chah-nulth consistently emphasized the potential for IMA co-management to begin the process of clarifying the meaning and position of indigenous rights within state systems that have thus far failed to satisfactorily incorporate those rights. With over three decades of leadership and negotiation experience behind him, Nelson Keitlah articulated this situation well:

> …what has not been defined by courts is Aboriginal rights, what it really means. And every decision that's been made, even if we've lost or if we've won, the judge has said, go and negotiate, that's what each one has said. So, that's something that we see, that [the IMA] was there doing exactly that.

The issue of explicitly defining or clarifying the meaning of indigenous rights is often the crux of the impasse in advancing indigenous claims to rights within state systems, Canada being no exception (Asch 1993; Kulchyski 1994). This frustrates Aboriginal peoples, Nuu-chah-nulth among them. In light of this, Keitlah points out one of the most intriguing possibilities that co-management arrangements present regarding indigenous rights. Though Canadian courts and governments have demonstrated a reluctance to develop clear and detailed definitions concerning the substance of Aboriginal rights, the IMA has provided a vehicle for the negotiation of Aboriginal rights in what amounts to a vacuum of legal and political will concerning the issue.

When asked to describe some of the key issues concerning their Aboriginal rights, Nuu-chah-nulth statements revealed an additional dimension of significance to analyses of co-management. Consider Larry Baird's answer:

> …we had certain rights and when we fished, we exercised our rights….If I want to go fishing, I'll go fishing. It's not a privilege…it's a right…I don't have to have

a license...I want to go out and utilize the resource, then I just go and do it....[In] Ucluelet where I grew up...we would just go and dig clams in the harbour or take crabs....So anywhere we went, we'd just hunt and fish at our leisure, because it's my right to do it....It comes from our teachings, from our elders, from our Chiefs. They did that, they were taught that, and it's...handed down. Your rights. And then we got caught up in all this bureaucratic, "you've got to have a license"—well, that's somebody else's colonialist imposition of privilege or licensing schemes...on us.

Similarly, Stephen Charleson said of Nuu-chah-nulth rights: "Our rights have been eroded, all of those, fishing, hunting, and all of those things....The way it's been is we haven't had any rights to do anything, to say anything like that before, but now [under the IMA] we have the right." Here, Baird and Charleson speak of their Aboriginal rights as Nuu-chah-nulth typically do: it is often in a context of activity, signalling the notion of rights being *things you do* as well as *things you have.* Enjoying them includes not only having them recognised, but being able to *engage* those rights in their daily activities. The clarification of rights is one step closer to the ultimate goal of *practising* them, of realizing them as pragmatic experiences that produce tangible results. Participation on the CRB moves the issue of rights beyond legal or legislative definition, allowing Nuu-chah-nulth to begin to exercise those rights constrained for decades by governments' paternalistic policies and their tacit political and economic complicity with forestry industry's aggressive pattern of extraction on traditional territories.

This point is further clarified when Nuu-chah-nulth make a connection between the recognition, protection and exercising of their rights and the exercise of power over their territories and resource activities that participation on the CRB makes possible. Francis Frank explained: "Regarding [Nuu-chah-nulth] rights with respect to resources...the Agreement provides, through our involvement in the management board, the ability to protect resources that are under negotiation at the treaty table." Like other Nuu-chah-nulth, Frank connects this "protection" of resource-based rights to CRB membership, which allows Nuu-chah-nulth participants to "have a direct say over all our traditional territories." He went on to describe how this "direct say" mechanism of the CRB results from a combination of "equal representation, the co-chair, and veto power." Together these provide a marked increase in the level of "influence" accorded Nuu-chah-nulth vis-à-vis the provincial government, and represent the "greatest significance" of the IMA.

Such determinative decision-making allows Nuu-chah-nulth to exercise their rights to manage and protect resources within their traditional territories, once the exclusive role of the *Ha-wiih. Ha-wiih* Bert Mack asserted that the CRB initiated a significant improvement in the level of his inclusion in decisions that affect his territories:

> If anyone wants do business...they'll come and see me first before they make the move. In fact, the government will tell them to come and see me!...And sometimes I disagree with what these parties are coming in with. To me, it could be dangerous for our people, especially once the treaty is signed and we have our land selections....

This is a good example of how the decision-making role of the CRB expanded the opportunity for Nuu-chah-nulth to exercise their right self-determination, which is typically defined by Nuu-chah-nulth as having the authority to themselves decide on issues that affect their communities and territories (Goetze 1998).

The point here is that Aboriginal peoples need not necessarily wait for definition of the rights in order for rights to be enjoyed or exercised. Rights can be practised without being identified and defined by the state. Negotiating a context of empowered co-management facilitates this process. Moreover, practising rights in the absence of a state-sanctioned or state-initiated definition may be more useful for First Nations. Kulchyski warns against over-emphasizing the importance of state-sanctioned definitions of Aboriginal rights, lest it allow the state to "confine, constrain, demarcate, and delimit those rights [as] part of the process of confining, constraining, demarcating and delimiting Aboriginal peoples" (1994: 4). Aboriginal rights should be "a [fluid] line of negotiation" between indigenous peoples and the state (1994: 19). The focus should be on gaining the means to practice those rights, rather than on conceptualizing them, or fixing them in text. Co-management under the IMA has created a context of power-sharing and negotiation that facilitates the capacity of Nuu-chah-nulth to exercise many of their rights with reduced interference, yet without the political upheaval of constitutional revision or the limitations of explicit legal definition. As such, empowered co-management has allowed Nuu-chah-nulth to advance some of their key aspirations regarding their Aboriginal rights within the Canadian state system.

Still discussing rights-based benefits of IMA co-management, some Nuu-chah-nulth emphasized the importance of having rights standards formulated by indigenous peoples in the international arena exercised at the local

level. For instance, Francis Frank remarked that such standards were of little use "unless they can be applied on the ground." In considering the means of mobilizing international indigenous rights conventions he considers it important to ask, "do they involve First Nations?" and to ensure that "governments do something about it and put it into action and have something, some implementation plan, in place that actually gives effect to that."

Similar to the challenge of locally mobilizing national recognition of indigenous rights, one of the key difficulties of international rights declarations exists in engaging those rights on the ground. Many activists and scholars question the utility of international endorsement of rights standards as "the machinery for their protection in most cases remains embryonic, or there are still important areas of uncertainty about the [mechanism for the] application of those rights" (Crawford 1988: 162). Such concerns are certainly well-placed when considering the utility of the *UN Draft Declaration on Indigenous Rights,* which documents "indigenous views on indigenous rights" (UN 1993). Though the *Draft Declaration* outlines a set of guiding principles for meeting such demands within encapsulating states, as Anaya observes, "it is one thing for international law to incorporate norms concerning indigenous peoples; it is quite another thing for the norms to take effect in the actual lives of people" (1996: 127); there is a need to identify pragmatic mechanisms that would allow for the effective transposition of internationally formulated indigenous rights discourse to locally engaged rights in practice. Larry Baird suggested opportunities for Aboriginal action:

> It's all part of this whole mosaic of rights, self-determination, self-governance. If it's recognized there [at the international level], then we better grasp onto it and start pulling some of that down here so it meshes with what we're trying to achieve here because somebody else had recognized it up there! Pull it together and the more we do that...the more we put into it, the better we're going to be in terms of being able to get to this nationhood we talk about.

Baird's comments reflect the thoughts of many Nuu-chah-nulth, who recognize the importance of locally mobilizing international standards for the protection of indigenous rights, which, in turn, is a means to buttressing Aboriginal claims in Canada.

The unique shared decision-making forum created by the IMA serves to illustrate how this model of co-management translates several specific elements of the *Draft Declaration on Indigenous Rights* into action in Clayoquot Sound. Three articles of the *Draft Declaration* are

particularly relevant here. Article 19 states that indigenous peoples have the right to participate at all levels of decision-making in instances where their interests may be affected. Indigenous peoples' right to own, develop, control and use their traditional lands and resources is noted in Article 26. Finally, Article 30 asserts the right of indigenous peoples to prioritize usages of their territories, and to require all activities on those territories have their free and informed consent prior to state approval (UN 1993).

By sharing determinative authority with Nuu-chah-nulth in the decision-making process (Article 19) regarding resource-related activities on their traditional territories (Articles 26 and 30), the CRB allows Nuu-chah-nulth to exercise many of the rights set out in these articles.[27] This is the case despite the fact that the Canadian government—as others—has not formally endorsed the *UN Draft Declaration,* and it has yet to co-operatively negotiate an effective response to Aboriginal rights claims within Canada. Transposing international indigenous rights standards into locally realized actions in the daily lives of individuals is, therefore, another way co-management might contribute to pragmatically advancing indigenous claims within encapsulating state systems.

Berkes, George and Preston make reference to the important connection between indigenous rights claims and co-management processes, noting, "the issue of co-management is...one of the more tangible aspects of [indigenous] sovereignty" (1991: 17). Nuu-chah-nulth comments suggest that, for them, IMA co-management is a means to addressing some of their key rights claims, thereby forwarding their aspirations of greater sovereignty within the Canadian state system. Further deepening the analysis of the Clayoquot model reveals that when the government shares substantive decision-making authority with Aboriginal partners in matters involving their traditional territories, their ability to exercise their rights to lands, resources and self-determination is enhanced.

The Road Ahead...

The aim of this paper has been to present Nuu-chah-nulth thoughts on co-management in Clayoquot Sound and to demonstrate how such insightful reflections prompted deeper analyses of the socio-political significance of co-management when it creates conditions in which indigenous participants can effectively exercise authority over their traditional territories and resources. Throughout the research process, Nuu-chah-nulth comments on their experience with co-management consistently pointed to the ways in which the IMA model of co-management has

allowed them to move forward with their aspirations for systemic change in the form of broad power-sharing relationships with the Canadian state and engaging their inherent rights within their traditional territories. This suggests that, over the long term, an empowered co-management process provides a positive and viable context within which to implement treaties or other negotiated agreements addressing broader issues of sovereignty within encapsulating states.

One of the key advantages of co-management regimes is that, since they do not require the explicit definition of rights, or any legal transfer of jurisdiction, governments are often less averse to negotiating these agreements. Where there is a recognized and urgent crisis that requires addressing, they will usually do so with relatively little delay. Moreover, besides being pragmatic initiatives for shared resource management, co-management arrangements can provide indigenous peoples the opportunity to exercise more power, to engage their rights and to improve circumstances immediately, rather than awaiting government action or the outcome of lengthy land claims processes.

Of course, co-management is also limited, regardless of the degree of power-sharing, to control over resources, and does not address other goals important to Aboriginal peoples related to education, healthcare and justice. As in the case of Clayoquot Sound, developments in other regions may prove that co-management involving substantive power-sharing may only be negotiated as a result of extreme political duress. Despite the fact that this successful precedent has been set, or because of it, the provincial government has been reluctant to negotiate another interim measures with an empowered co-management board like the CRB. Another issue is whether the Province would allow the CRB to continue under a treaty, where the Board's decisions would gain formal statutory authority and hence, greater power.

In this paper I have attempted to engage Nuu-chah-nulth suggestions concerning the significance of co-management beyond its managerial benefits and its potential entrapments, and their insistence that provisions for substantive power-sharing make several socio-political benefits possible. The Clayoquot model clearly demonstrates that co-management of natural resources may also serve as an institutional and processual means to forwarding indigenous aspirations that demand augmented levels of decision-making authority over their communities and traditional territories within encapsulating settler states. Serious consideration needs to be given by researchers to pursuing these ideas by analyzing how co-management initiatives that expand indigenous access to decision-mak-

ing in law and practice embody and further enhance wider political processes, for example power-sharing and confidence-building between indigenous peoples and the state. As Nuu-chah-nulth themselves describe, such forms of co-management represent a significant change in relations with the state and settler society:

> I think it's—I wouldn't say the total—respect the government has for our First Nations. But there is a change in their attitude. I think that's the biggest difference since the IMA....To me, it means the government has looked at us in a different light, in a different way now, in a way that they're not opposed to every move we make, which was happening. It's become easier with this Agreement, and I think it's actually spread all over to the other Nations. It's not only the Central Region, it's beyond that now....I think that that was the influence we wanted with the governments. Not the influence, but to let them know that we are here and we want to be part of the peoples of the country. That's it.
> — *Ha-wiih* Bert Mack

> Basically, the IMA is a political agreement. It is a tool to force the Province [of British Columbia] into finally looking at First Nations in a serious way. And that's something that the courts have not been able to do. So, it's still flagged as something totally extraordinary in the world of First Nations, this Interim Measures [Agreement] that the Central Region Chiefs have today in their hands. And by appearances...it may be a model that is going to be considered to be something of great significance to both worlds, of non-Aboriginal people and Aboriginal people living side by side.
> — *Ha-wiih* Nelson Keitlah

Tara C. Goetze, Department of Anthropology, McMaster University, Hamilton, Ontario, L8S 4L9, Canada. E-mail: tcgoetze@mac.com

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Notes

1 Funding for this research was provided by The Institute for the Study of Man, New York City, Ruth Landes Field Research Award. An earlier version of this article was given as an initial report of research findings at the 1998 Conference of the International Association for the Study of Common Property.

2 Excerpts are direct quotations from interviews I conducted while in Clayoquot Sound in 1997.

3 This research is based on three months of fieldwork conducted in 1997 for a Masters Thesis (Goetze 1998). Most of my efforts were directed toward organizing and conducting 27 semi-structured interviews (averaging 90 minutes) with Nuu-chah-nulth co-managers, leaders and community members; observing Board meetings; and attending numerous Nuu-chah-nulth and local community events where discussions concerning the co-management agreement often took place. I found additional information on Clayoquot Sound, the co-management agreement and Nuu-chah-nulth views in archival sources, including the Nuu-chah-nulth newspaper, Board minutes and newsletters, Nuu-chah-nulth Tribal Council documents and provincial government documents.

4 The Nuu-chah-nulth First Nations (formerly called the "Nootka") include 14 nations living along the west coast of Vancouver Island just off the mainland coast of Canada's western-most province, British Columbia. Clayoquot Sound is located midway along the west coast of Vancouver Island and is home to some of the largest remaining stands of old-growth temperate rainforest in the world. The Nuu-chah-nulth Tribal Council represents these nations, which are divided into three regional groups according to their location along the coast: Southern Region, Central Region and Northern Region. Clayoquot Sound lies among the traditional territories of the Central Region Nuu-chah-nulth, which is comprised of five First Nations: Tla-o-qui-aht, Ahousaht, Hesquiaht, Ucluelet and Toquaht. In this article, use of 'Nuu-chah-nulth' refers to the Central Region Nuu-chah-nulth who are the signatories of the IMA. Together, the Central Region Nuu-chah-nulth represent over 4 000 people, just over half of the population of the Sound.

5 In this context, I use "effective'" to suggest the timely implementation of co-management measures as well as the ability to meet Aboriginal participants' demands for determinative decision-making authority over traditional territories (see Goetze 1998).

6 In the context of this paper the term "negotiator" is used to identify members of the five Central Region Nuu-chah-nulth First Nations who participated in the extensive process of negotiating the IMA in 1993-94.

7 In Canada, the term Aboriginal peoples includes First Nations ("Indians"), Inuit and Métis peoples.

8 Suggestions included devolution of authority (Usher 1986), decentralizing control over the resource base (M'Gonigle 1988) and self-management (Berkes, George and Preston 1991) for indigenous participants.

9 Like other Aboriginal peoples in Canada under the *Indian Act* legislation, the Nuu-chah-nulth have an elected system of leadership, which while functional, has not replaced the traditional form of *Ha-wiih* (Hereditary Chief) leadership. Under the *Ha-wiih* system, future Chiefs undergo years of training in order to acquire the skills necessary to manage the lands and resources for which they are responsible for the present and future benefit of their tribes. In recent years, Nuu-chah-nulth have worked to increase the recognition and governing role of the *Ha-wiih* system both within their own communities and in dealings with Canadian governments.

10 The "managerial challenges" typical in implementing co-management practices include, but are not limited to: ensuring compliance with and enforcement of regulations; managing stakeholder access to resources (usually through a system of use zones); monitoring ecosystem health; and establishing harvest quotas (Borrini-Feyerabend et al. 2000; Kanton et al. 1997)

11 Pronounced he-shook-*ish*-sha-walk and ha-*hool*-thee.

12 In British Columbia, interim measures agreements are designed to protect First Nations' resource interests while their land claim treaty is negotiated. Following the recommendation of the BC Treaty Commission to negotiate such agreements in cases of conflict over claimed territories and their resources, the aim is to allow resource activities to continue, albeit in a restricted manner. Prior to this, only court injunctions would serve the purpose of protecting these indigenous interests by halting resource-related activities in the disputed area, a costly avenue for all parties involved.

13 These initiatives included the *Forest Practices Code Act*, the *Forest Renewal Act*, the *Environmental Assessment Act*, the *Sustainability Act*, and the Protected Areas Strategy. Successfully implementing and enforcing them remains a challenge.

14 At the time, MacMillan Bloedel held Tree Farm Licence 44, an area of tenure that included parts of Clayoquot Sound.

15 The *Interim Measures Extension Agreement* (IMEA) renewed the provisions of the IMA for another three years in March 1996. It was subsequently renewed again in 1999. It will expire in Mrch 2oo6, or with the completion of a land claims treaty between the Nuu-chah-nulth and Canadian governments, whichever occurs first.

16 Ocean fisheries are the jurisdiction of the federal Department of Oceans and Fisheries. Since IMA negotiations were strictly bilateral, between the Government of British Columbia and Central Region Nuu-chah-nulth, fisheries such as the salmon fishery could not be included in the mandate of the CRB. However, the IMA does cover foreshore fisheries such as aquaculture, and the harvesting of marine resources such as oysters and clams.

17 The provincial representatives on the CRB are, in fact, all local people, who represent the local villages of Tofino, Ucluelet and the town of Port Alberni, as well as local environmental interests, loggers and tourism businesses.

18 This is not to say, of course, that implementation occurs smoothly and without delay. A key challenge that Clayoquot co-management faces is bureaucratic resistance to its decision-making powers which manifests itself largely through foot-dragging and "misplacing" of Board queries regarding land use proposals meant to inform its decisions (see Goetze 1998).

19 Culturally Modified Trees (CMTs) are defined in the IMA as "any tree or portion of a tree from which Aboriginal peoples in the exercise of an Aboriginal right have used bark

or wood for traditional, sustenance, ceremonial, or transportation purposes."

20 For instance, in 1995, a referral involving the amendment of a company's lease agreement was refused, citing the need for further consultations with Nuu-chah-nulth and local residents. In 1996, an application to build a boat dock on Flores Island was rejected by the Board.

21 Such values would include the spiritual, medicinal and subsistence usages of forest resources by Nuu-chah-nulth. It also includes recreational and educational activities pursued by Nuu-chah-nulth and non-Natives alike.

22 In the absence of a lengthy historical review of the inequality that Aboriginal peoples in Canada have endured and continue to struggle against, the neo-colonial relationship between Aboriginal peoples and governments in Canada may instead be summarized through three periods in history. From Confederation to the Second World War, assimilationist strategies relied mainly on the tactics of segregation, wardship and protection. After the war, policies focussed on integrating Aboriginal peoples into the Canadian social and political landscape as "equal" citizens absent of any "special" inherent rights. Since the mid-1970s, governments' focus has been on limiting Aboriginal autonomy via the restriction of devolved or inherent decision-making authority within the Canadian state system (Fleras and Elliott 1992: 10).

23 A "crisis of confidence" refers to the fundamental mistrust underlying the perception of parties to a negotiation process about their motives and objectives in those negotiations (Goetze 1984). These misperceptions can be based on ideological, cultural or political differences or simply on the belief by either party that the other side wants to secure their objectives without seeking an outcome that would be acceptable to all (Goetze 1997).

24 Confidence-building is associated with a process of transformation which facilitates a "shift in the way leaders and publics think about potential adversaries and the sorts of threats that they pose" (Richter 1994: 80). This process is important not just for how it acts to correct suspicions or misperceptions, but how it affects the actions, decisions and behaviour of actors controlling policy.

25 According to several Nuu-chah-nulth informants, the review of proposed cutblocks by the CRB is considered an important way of protecting culturally significant Aboriginal rights, for CMTs form an important source of traditional heritage and knowledge for Nuu-chah-nulth. The same could be said for the protection of Aboriginal heritage sites throughout the Sound, including burial and historic sites as well as physical artifacts found in the area.

26 Both BC and Canada have fiduciary obligations (i.e., a trust-like legal duty) that require them to consult with and meet the concerns of Aboriginal people whenever possible.

27 Nuu-chah-nulth may not own their lands, but participation on the CRB allows them to control activities on their traditional territories. While they do not participate at all levels of decision-making, the veto provision of the IMA does afford them the capacity in practice to block land-use decisions made elsewhere which may adversely affect their future resource interests or territories.

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