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"Reaching for New Perspectives on Co-Management: Exploring the Possibilities for Systemic Change and Indigenous Rights under the *Interim Measures Agreement* in Clayoquot Sound, BC."

Stream: Aboriginal Territory and Management Rights
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Introduction

In recent years, cooperative management of resources has received increasing attention from academics, policy makers and resource users alike. Researchers from many disciplines have investigated 'co-management' from a variety of perspectives. As a result, a spectrum of the theoretical and practical implications of co-management regimes has emerged, though it is dominated by a particular scope of inquiry: co-management is seen primarily from a resource-centred perspective. This makes sense. The primary motivation for initiating co-management is typically to ameliorate the management of a resource in crisis, threatened by competing interests and/or knowledge systems. Certainly, ecological considerations are both useful and necessary. Yet the literature reveals a shared understanding that co-management is not only about improving the management of *resources*, but also about negotiating and redefining relationships between *people* with varying interests in, and varying degrees of authority over, the resource (Usher 1986, Pinkerton 1989, Finlayson 1994, Hoekema 1994). So, the social and political dimensions of co-management have been acknowledged, but to a limited degree. In considering the significance of co-management, what might be called 'analytical reach' could be augmented. Using the *Interim Measures Agreement* (IMA) between the Government of BC and the Nuu-chah-nulth First Nations in Clayoquot Sound as an example, I suggest there is great value in reaching beyond the immediate resource-related issues to explore the broader significance and implications of co-management regimes as political, legal and social phenomena. This 'second level' of analysis provides important theoretical and practical insight into issues such as decentralized power-sharing and indigenous rights.

The Co-Management Approach

Co-management arrangements have as their core principle a cooperative and inclusive decision-making process involving competing users and/or claims. The aim is to create a "team effort" among stakeholders, including governments, indigenous groups, and non-indigenous stakeholders (Jacobsohn 1993:54). Compromise is required if co-management is to be successful; in order for 'collective' decisions to be made, stakeholders' interests and cultural values must be integrated in such a way so that, as Cassidy and Dale suggest, "potential adversaries become allies in resource management" (1988:58).

Co-management typically operates through joint management boards comprised of equal indigenous-government representation and a chair. Most co-management regimes begin with a focus on resource protection, often in response to conflict over resource access or use, but a variety of management strategies can be employed once a basis of cooperative effort is established. Ultimately, as Pinkerton notes, co-management "is not only about new institutions, but more fundamentally about the new relationships resulting from them" (1989:8). The development of cooperative institutions is only effective insofar as they are a part of a relationship based on the principles of partnership, mutual trust, and open communication.

However, all co-management is not alike; a fundamental difference lies in the degree of decision-making power accorded the indigenous participants. For example, most co-management arrangements which involve indigenous peoples allow for indigenous 'consultation', according 'advisory' status which does not involve indigenous participants in the process of decision-making with any substantive authority.

Common Foci of Co-Management Research

The call for 'analytical reach' emerges out of the recognition that the main foci of co-management research can be grouped into two broad categories: improved management of the resource(s), and conflict resolution. While some authors concentrate on one area to frame their research, most argue that the two are inherently linked; the resolution of conflict is often viewed as crucial to improved management of the resource. This highlights the ecological as well as the socio-political elements of co-management, but the socio-political element is seen as serving the greater ecological goal.

Finalyson (1994) concludes that it is crucial to view resource management as first and foremost the management of groups of *people* with often divergent interests, which results in conflict over the resource and a clash of management systems that endangers the resource; successful, sustainable management thus lies in successfully negotiating and reconciling these interests. Along the same line of argument, Berkes, George and Preston (1991) state that co-management is an effective vehicle for moving toward the ecologically sustainable use of resources, particularly if it can meet the challenge of addressing the enduring conflict between state and local knowledge and management systems, and indigenous claims to greater autonomy within the state system. The Yupitak Bista study on the subsistence lifestyle of the Yupik views the cooperative management agreement between the Yupik and the US government as a means to protecting subsistence resources, but also as a mechanism for addressing increasing conflict over access to and use of those resources which, in turn, is threatening the health of the resource (1976:28-29). Shaffer describes how the Nisga'a see co-management as a vehicle for the protection and enhancement of fisheries, and to "identify and resolve resource conflicts" that impede sustainable fisheries management and practices (No Date:9).

After evaluating the Beverly-Kaminuriak Caribou Management Board, Usher's concern is primarily that traditional ecological knowledge be integrated to a greater degree in the co-management structure and process as a means to improved conservation but also as a means to bridging chasms in understanding between the indigenous and state resource management systems. Thus, "cooperation [is] a more effective and less costly conservation strategy" (1994:114) but it also fosters "a harmonization of the state and indigenous systems or approaches to understanding" (Ibid:117). Similarly, Nakashima views the integration of indigenous

participants' traditional ecological knowledge in co-management as necessary for the promotion of equality and conciliation between managing 'partners', which is a precondition for effective resource management (1994:99). Finally, Weiner argues that resolving the conflict between the subsistence needs of Alaskan Natives and the resource development interests of the state through a new sustainable management approach, "willing cooperation is less expensive than enforced compliance; practical management depends on cooperation" (1991:6).

This limited review illustrates a broader trend. What appears to be occurring in co-management research, then, is this: a concern with the ways in which joint management can be employed to ensure effective, sustainable management and development of the resource-base is accompanied by a parallel set of observations regarding the elements required for the effective management of the people involved in the arrangements, in terms of reconciling divergent interests. I believe it is useful to 'reach out' from here and consider the broader social, political, and economic significance that co-management arrangements may have when they redefine the relationship between resource users, First Nations and government within a framework of substantive power-sharing, particularly in the case of First Nations.

Incorporating Analytical Reach into Co-Management Research

The process of incorporating analytical reach into co-management research reflects the need for a clearer consideration of the extensive political and social dimensions of joint resource management, and the issue of power-sharing, which 'effective' co-management not only requires, but creates, when it is successful. This is not to say that the ecological components are less significant, but that co-management is not singularly or even dominantly an ecological issue; using this pluralistic approach, the ecological aspect of co-management is also a catalyst, or a starting point, for addressing a spectrum of other social, political and legal issues that are significant in their own right.

This level of analysis has been alluded to in the literature. 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). He adds, however, that these objectives cannot be 'maximized' simultaneously. Using similar 'reach', Binder and Hanbidge remark that co-management involves issues such as "institutional structures and paradigms, internal and external conflicts, questions of equity, effectiveness and efficiency, and the enforcement and maintenance of interests and rights" as well as the sustainable management of resources (1994:121). 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); beyond this, it is useful to determine *which* aspirations and *how* they are fulfilled.

I seek to clarify the use of 'analytical reach' based on recent research in Clayoquot Sound. My aim is to 'reach out' and comment on the broader implications of 'empowered' co-management for First Nations' aspirations regarding political and structural equity, or 'systemic change', and the protection and practice of indigenous rights.

The *Interim Measures Agreement* for Clayoquot Sound

The *Interim Measures Agreement* for Clayoquot Sound (IMA) arose out of the massive 1993 protests over abusive forest practices in Clayoquot Sound and the persistent lobbying efforts of the Central Region Nuu-chah-nulth for recognition of their land claim. The Agreement was

signed in March 1994 by the Government of BC and the Ha-wiih (Hereditary Chiefs) of the five Central Region Nuu-chah-nulth First Nations, the Tla-o-qui-aht, Ucluelet, Toquaht, Ahousaht and Hesquiaht, which together represent about 4000 people, or just over half of the population of the Sound. The *Interim Measures Extension Agreement* (IMEA) renewed the provisions of the IMA for another three years in March 1996.

A key aspect of the IMA is the *Central Region Board* (CRB) a co-management body designed to oversee all land-use decisions in Clayoquot Sound. The Board, made up of equal numbers of Nuu-chah-nulth and local provincial appointees, reviews all resource use and development proposals and makes its decisions by consensus. 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, double majority requires a majority of both Nuu-chah-nulth and provincial representatives. Either way, the clause gives the Nuu-chah-nulth participants veto power over decisions which may negatively affect their interests. Though the provincial cabinet may overturn CRB decisions, if this occurs, the Central Region Resource Council (CRRC), composed of Nuu-chah-nulth Hereditary Chiefs and cabinet ministers, would be gathered to conduct a public inquiry into the reversal. Given the inherent volatility of resource issues in Clayoquot Sound this is a situation the provincial government would rather avoid.

The presence of the 'veto' element is unique to this co-management agreement in Canada, and along with recourse to the CRRC, is what moves the IMA beyond consultation to what can be called substantive power-sharing. Under the IMA, Central Region Nuu-chah-nulth have real, determinative authority to *make decisions* about resource use in Clayoquot Sound. In the past four years of its operation, double majority has never 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. The level of control the CRB affords Central Region Nuu-chah-nulth over the management of resources on their traditional territories is referred to as 'empowered' co-management, as it exceeds the 'advisory powers' co-management regimes typically grant indigenous participants.

This research is based on fieldwork conducted over ten weeks during the summer of 1997. Most effort was directed toward organizing and conducting twenty-seven semi-structured interviews averaging ninety minutes each, observing bi-monthly CRB meetings, and attending an unanticipated number of Nuu-chah-nulth and local community events. Additional information on Clayoquot Sound, the IMA, the CRB, and Nuu-chah-nulth views has been gleaned from a host of archival sources, including the Nuu-chah-nulth newspaper, Ha-Shilth-Sa, CRB minutes and newsletters, Nuu-chah-nulth Tribal Council documents, and a variety of provincial government documents. I owe a great deal of gratitude to the many Nuu-chah-nulth, local community leaders and government representatives who contributed to this research, and I am especially grateful for the warm reception and generosity I experienced while visiting and staying in Nuu-chah-nulth communities during my first fieldwork experience.

Co-management, Power-Sharing, and Systemic Change

Many researchers advocate some form of power-sharing for local users under co-management, particularly if they are indigenous peoples. Suggestions include devolution of authority (Usher 1986), decentralizing control over the resource base (M'Gonigle 1988) and self-

management (Berkes, George and Preston 1991) for First Nations. Pursuing these ideas beyond their ecological value by attaching their discussion to the wider political implications of power-sharing between indigenous peoples and the state presents co-management as a means to greater systemic changes.

First, however, it is important to define what is meant by 'systemic change' in this context. Typically, changes to the state system would involve structural changes, such as constitutional amendment, or mutual recognition of rights through treaties and agreements, that would fundamentally alter the dynamic of interaction between the state and a group demanding a heightened status within it. This is a forbidding prospect for most, if not all, governments. Leroy Little Bear brings perspective to the notion of systemic change concerning First Nations: "When aboriginal people talk about self-government, they're saying they want to be part of the whole, part of what makes up government in this country. When we look at the constitution in a non-technical way, constitutional law is about relationships between governments. If we look at constitutional talks in this way, aboriginal people are trying to bring about a new relationship" (1987:60). For the purposes set out here, systemic change involves the fundamental restructuring of the relationship between First Nations and Canadian governments, particularly in terms of the distribution of power, from one characterized by dependency and paternalism to one of self-determination and partnership.

A lengthy historical review of the inequality that First Nations in Canada have endured and continue to struggle against is unnecessary to convey the sense of urgency that underscores the need for such systemic change in Canada. The relationship between First Nations and the state system in Canada can 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 (Fleras and Elliott 1992:10). After the war, "integration and a commitment to formal equality" were employed until the mid-seventies, when the "contemporary focus on limited aboriginal autonomy" emerged (Ibid: 10). At the centre of the drive for restructuring of the state-indigenous relationship is the recognition of the need to move from the colonial vestiges of the past to a government-to-government, nation-to-nation, relationship based on respect and partnership. But, as noted in the Report of RCAP, 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 First Nations is viewed as possible only at the sufferance of the state, and as such, to be limited to delegation of administrative authority, as opposed to the negotiation of legislative powers.

The history of relations between First Nations and Canadian governments has left a legacy of suspicion and distrust. First Nations suspect the government's capacity to negotiate in good faith arrangements that go beyond delegated municipal authority. Governments continue to doubt First Nations' capacity to make 'sound' decisions and to limit their demands, and insist that a 'third order' of First Nations government would irreparable destabilize the federation. This lack of trust can also be called a 'crisis of confidence', which seriously impedes the process of sharing power with First Nations in Canada.

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). In such an atmosphere, the first objective must be to 'build confidence'. 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 this affects the actions, decisions, and behaviour of actors controlling policy. Confidence-building ultimately seeks to "transform [hostile] relationships into more cooperative ones" (Ibid:81). Only when a minimum level of confidence has been established can serious restructuring of a relationship occur.

A 'second level' of analysis of co-management under the IMA would examine the possibility for veto-based joint management arrangements to address such a 'crisis of confidence'. Co-management under the IMA has acted as an 'interim measure', not just in the literal, legal sense, but as a political 'middle ground', which allows the state to experience power-sharing in limited domain, and affords Nuu-chah-nulth a degree of the autonomy they ultimately desire with a broader treaty.

The presence of the double majority clause in the IMA represents a successful negotiation of decision-making power for First Nations. Bob Mundy, CRB representative for Ucluelet, explains 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 ha[ve] the power to do that". The fact that the Agreement was extended for three years reinforced the Nuu-chah-nulth sense of having a new, empowered relationship with the provincial government. The fact that the veto element of the IMA has never been used has both surprised and comforted government representatives and local communities, who feared the Nuu-chah-nulth would invoke it readily and indiscriminately. Though tensions still remain, the cooperative framework of the CRB is providing a period of adjustment or 'confidence building' for governments, First Nations, and local communities to be affected by the changes the currently negotiated Nuu-chah-nulth treaty will bring. As Hesquiaht Chief Councillor, Stephen Charleson, suggests:

> *[The IMEA] 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…*

By introducing new forums for dialogue between Central Region Nuu-chah-nulth, government representatives, and other local stakeholders, the CRB has facilitated the creation of new and more positive relationships within a structure of cooperative power-sharing between First Nations and the provincial government. For Nuu-chah-nulth whom I interviewed, this

context of a power-sharing partnership is a significant shift from the state paternalism they have historically experienced. Nelson Keitlah, Nuu-chah-nulth Co-Chair on the CRB, believes that "power taking is going into hands of the people that should have had the power to begin with". Several Nuu-chah-nulth nations 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.

In this way, 'analytical reach' highlights important political mechanisms and implications of co-management under the IMA. The CRB represents a negotiated arrangement which emphasizes a cooperative relationship between the state and First Nations in a context of power-sharing, and provides an arena for building the confidence of the parties currently negotiating broader arrangements of self-governance for a group of indigenous peoples encapsulated by the state. From this perspective, co-management holds the potential as a means to greater systemic changes by restructuring the relationship between Central Region Nuu-chah-nulth and the provincial government from one of monopolized control to one of partnership in resource management decision-making, and by providing an opportunity for establishing confidence in the feasibility of such a relationship in a more extensive treaty arrangement.

Co-management and Indigenous Rights

Another topic addressed by extending 'analytical reach' is the relationship between such 'empowered' co-management and the demands for rights made by indigenous peoples within state systems. Typically, co-management issues are related to indigenous rights through a focus on the recognition of property rights as they relate to ownership or access to resources, and the authority over the resources that ownership confers. Evaluating co-management regimes from a 'rights-in-practice' perspective expands this discussion. Stavenhagen (1994) notes that rights are 'enjoyed' and 'protected' in their being *exercised*. In this sense, rights are relevant only insofar as they are part of the lived experiences of an individual or group. The recognition of indigenous rights does not necessarily result in those rights being exercised at the local level. Since many indigenous claims are based on claims to certain rights, it is relevant to assess (1) how co-management might clarify and engage rights that remain legally undefined and (2) how co-management agreements might 'transpose' internationally formulated rights declarations to locally exercised rights-in-practice.

The IMA and IMEA are not specifically designed to address aboriginal rights, which the agreements assume is the domain of treaty negotiations. In fact, Article 4 confirms that "this agreement does not define or limit the aboriginal rights, title and interests of the First Nations". Despite this, rights issues are addressed in a variety of ways in the text of the agreements:

- The government-to-government relationship between First Nations and the BC government acknowledged in 1993 is endorsed.

- The agreement is made specifically with the Ha-wiih of the five Central Region Nuu-chah-nulth First Nations, recognizing the traditional Nuu-chah-nulth structure of authority.

- Among the objectives of the CRB are 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.

- Article 9(d) states that it is the responsibility of the CRB to "ensur[e] that BC's fiduciary obligation with respect to aboriginal rights have been met".

- A number of provisions refer to 'incorporating the perspective of First Nations".

- The stipulation that for a decision to pass the CRB, "there must be a majority vote of the First Nation representatives", should consensus fail.

- The protection of Culturally Modified Trees under Article 27, which may only be "moved, cut or logged with the consent of the First Nation[s]".

These excerpts suggest the number of ways in which Nuu-chah-nulth cultural, political and resource rights are implicitly recognized and protected by various provisions and in the activities of the CRB. Though vague and clearly limited in the range of protection the provisions provide, Ahousaht negotiator, Cliff Alteo, insists the IMA plays an important role concerning Nuu-chah-nulth rights:

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

This comment touches on how 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. This frustrates many First Nations in Canada, Nuu-chah-nulth among them. Nelson Keitlah articulates this consternation well, while pointing out one of the most intriguing possibilities that co-management arrangements present regarding indigenous rights:

> *…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.*

Since Canadian courts have articulated their unwillingness to develop detailed judicial definitions concerning the substance of aboriginal rights, this suggestion that 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, is compelling indeed; it highlights the potential for co-management to begin the process of clarifying the meaning and position of indigenous rights within state systems that have thus far failed to incorporate those rights.

However, the Nuu-chah-nulth understanding of rights includes not only having them recognised, but being able to engage those rights in their daily activities. When Nuu-chah-nulth

speak of their rights, it is often in a context of activity, signalling the notion of rights being things you *do* as well as things you *have*. Stephen Charleson asserts:

> *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…*

Similarly, Larry Baird, IMA negotiator and elected Chief of Ucluelet First Nation, said of Nuu-chah-nulth rights:

> *…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.*

In this sense, the clarification of rights is one step closer to the ultimate goal of practising them, of realising them as pragmatic experiences that produce tangible results.

Participation on the CRB moves the issue of rights beyond recognition, allowing Central Region Nuu-chah-nulth to begin to exercise those rights constrained for decades by governments' restrictive paternalism and the forestry industry's reckless pattern of extraction on Nuu-chah-nulth traditional territories. From this perspective, Nuu-chah-nulth make an important connection between the recognition, protection and exercising of their rights and the exercise of power that participation on the CRB makes possible. Francis Frank, a negotiator during the IMA and IMEA talks, explains:

> *[Regarding Nuu-chah-nulth] rights with respect to resources…the agreement provides, through the Culturally Modified Tree clause and also our involvement in the management board, the ability to protect resources that are under negotiation at the treaty table.*

He believes that the greatest significance of the IMA is the fact that, with the CRB, Central Region Nuu-chah-nulth now "have a direct say over all our traditional territories". He went on to describe the "'say' mechanism" of the CRB as a combination of "equal representation, the co-chair, and veto power", which together provide a marked increase in the level of "influence" accorded Central Region Nuu-chah-nulth vis-à-vis the provincial government. The 'veto' power of double majority is key, for, though it has never been used, it provides Nuu-chah-nulth with the political leverage required to ensure their interests are considered in the decision-making process. The power of refusal that double majority represents gives Nuu-chah-nulth greater control over activities on their traditional territories; decisions can no longer be imposed, nor are Nuu-chah-nulth views easily dismissed.

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. Toquaht Ha-wiih, Chief Bert Mack, who sits on the CRB, feels that the IMA initiated a significant improvement in the level of his inclusion in decisions that affect his territories:

> *It shows up in the way...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. If anyone wants to start up a 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...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.*

This is a good example of how the decision-making role of the CRB has expanded the opportunity for Nuu-chah-nulth to exercise their right self-determination, which is typically defined by Nuu-chah-nulth as a process of deciding on issues that affect their communities and territories.

The point here is that one need not necessarily wait for definition in order for rights to be enjoyed or exercised. Rights can be practised without being identified and defined by the state, and that, in fact, practising rights in the absence of a state-sanctioned or state-initiated definition may be more empowering 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). Instead, aboriginal rights should be "a [fluid] line of negotiation” between First Nations and the state (Ibid:19). The focus, then, 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 that facilitates the capacity of Central Region Nuu-chah-nulth to exercise many of their rights with reduced interference, yet without constitutional revision or explicit legal definition. Employing 'analytical reach' has provided an opportunity to explore how empowered co-management has allowed Nuu-chah-nulth to advance some of their key aspirations regarding their aboriginal rights within Canada.

Another opportunity for ‘analytical reach’ exists in evaluating the capacity of various forms of co-management to 'transpose' internationally endorsed rights discourse to *locally engaged rights in practice*. 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). A key benefit of *UN Draft Declaration on Indigenous Rights* (1993) is the fact that it documents indigenous views on indigenous rights in a set of guiding principles for meeting such demands within the encapsulating state. A key difficulty, however, with international rights declarations exists in engaging those rights at the local level. Indeed, 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 content and application of those rights" (Crawford 1988:162).

As suggested above, co-management under the IMA is able to engage Nuu-chah-nulth claims to rights to a certain degree without legal definition of those rights. On the other hand, such empowered co-management also presents the possibility for rights standards formulated by indigenous peoples in the international arena to be applied and exercised locally by indigenous groups. Giving a Nuu-chah-nulth perspective on this issue, Larry Baird emphasized the importance of mobilizing international standards for the protection of indigenous rights at the local level to buttress First Nations claims in Canada:

> *It's all part of this whole mosaic of rights, [self]-determination, self-governance. If it's recognized [at the international level], then we better grasp onto it and start pulling some of that down here so it meshed with what we're trying to achieve here because somebody else had recognized it up here! 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.*

Clayoquot spokesman, Francis Frank, remarked that international standards concerning indigenous rights were of little use "unless they can be applied on the ground". In considering the means of application 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". Though not a government plan for implementing indigenous rights standards, the IMA established a co-management regime that translates several elements of the *Draft Declaration* into action in Clayoquot Sound:

- Article 19 states that "indigenous peoples have the right to participate fully…at all levels of decision-making in matters which may affect their rights, lives and destinies through representatives chosen by themselves…"

- Article 22 states that "indigenous peoples have the right to special measures for the immediate, effective and continuing improvement of their economic and social conditions…"

- Article 26 acknowledges that "indigenous peoples have the right to own, develop, control and use the lands and territories…and other resources which they have traditionally owned or otherwise occupied or used…"

- Article 30 says that "indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands, territories and other resources, including the right to require that States obtain their free and informed consent prior to the approval of any project affecting their lands, territories, and other resources…" (UN 1993).

By sharing determinative authority with Nuu-chah-nulth in the decision-making process regarding resource-related activities on their traditional territories, the CRB allows the Central Region Nuu-chah-nulth to exercise many of the rights set out in the aforementioned articles; this, despite the

fact that the Canadian government has not formally endorsed the *Draft Declaration*, nor has it the political will to cooperatively negotiate an effective response to indigenous rights claims itself.

Transposing international rights standards into actions in the daily lives of individuals is one way co-management might contribute to pragmatically advancing indigenous claims within state systems. Berkes, George and Preston refer to the role of indigenous rights in co-management contexts, noting that "the issue of co-management is… one of the more tangible aspects of [indigenous] sovereignty" (1991:17). Indeed, employing 'analytical reach' reveals how co-management such as that introduced by the IMA presents First Nations with an opportunity to enhance their ability to exercise their rights in such areas as resource protection and self-determination through decision-making regarding matters involving their traditional territories. This process can complement and contribute to the implementation and negotiation of treaties addressing broader issues of sovereignty.

Conclusion

Though research on co-management has tended to focus on ecological considerations, employing 'analytical reach' has revealed that, beyond improving resource management significantly in Clayoquot Sound, co-management under the IMA has allowed the Nuu-chah-nulth to move forward with their aspirations for power-sharing and engaging their inherent rights.

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 co-management agreements and 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 progressive 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 First Nations. As in the case of Clayoquot Sound, such substantive power-sharing arrangements under co-management may only be negotiated as a result of extreme political duress. Moreover, despite the fact that this precedent has been set, BC has refused to negotiate another interim measures with an empowered co-management board like the CRB; nor has it any intention of allowing the CRB to continue under a treaty, where the Board's decisions would gain legal authority and hence, greater power. Such adversarial wielding of political will in dealings with First Nations continues to pose the greatest threat to achieving a productive relationship of partners between First Nations and the Canadian state.

This is by no means a comprehensive analysis of co-management, nor is it an exhaustive evaluation of co-management in Clayoquot Sound. The point here is to illustrate the significance of co-management beyond its obvious ecological and managerial benefits, to suggest the possibility for viewing co-management from alternate perspectives. Using the IMA as an example, the political, social and legal dimensions of co-management were considered, and the importance of substantive power-sharing with indigenous peoples in such regimes was emphasized. Much more remains to be explored in further research.

An augmented level of analysis of co-management is not confined to issues of systemic change or indigenous rights. The capacity of co-management to mobilize principles of participatory, community-based development is also worthy of investigation. By expanding the

analytic perspective, the significance and potential of co-management takes on a broader scope theoretically and practically. Ultimately, ‘analytical reach’, involves evaluating co-management as the means to much broader political, legal, economic, and social ends, and highlighting co-management’s potential as a promising institutional development for addressing indigenous claims within state systems.

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Isn't this in Pinkerton's book? I can't put my hands on my copy just now of either the book or his report, which does seem to be separate.

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