

Rightfully Unfair

The treatment of the commercial salmon fishermen along the the west coast of Canada, through the unprincipled actions of their own government, is driving them into bankruptcy

The invocation of human rights is a relatively recent development in human history, with much of the language around human rights being solidified through work by the United Nations (UN) after the horrors of the Second World War. As in all developments in human history, there is an ebb and flow to new and evolutionary concepts as they get tested in the courts, in international law, and in practical application and implementation—and human-rights principles are no exception.

We see, in many instances at the present time, egregious examples of massive human-rights abuses during civil wars, in the treatment of displaced citizens, and in the present exodus of stateless citizens through refugee camps and their attempts to land in countries that will protect them, not as citizens of any particular country, but as human beings who have inalienable rights according to the international principles that have evolved through the human-rights process over the last several decades.

Despite the major examples of human-rights abuses that we are made aware of daily through our interconnected planet, I am going to focus on one small part of the world and one example of human-rights abuse in a country that often sees itself as a paragon of best practices in respect to the treatment of its citizens: the west coast of Canada, and the treatment of the commercial salmon fishermen there.

I am going to focus on the principle of 'fair' livelihood as articulated in the International Covenant on Economic, Social and Cultural Rights, to which Canada is a State Party. Article 6 recognizes the "right to work, which includes the right of everyone to the

opportunity to gain his living by work which he freely chooses or accepts", and "steps to be taken by a State Party....To achieve the full realization of this right shall include... Policies and techniques to achieve steady economic, social and cultural development and full and productive employment."

In Canada, although sea resources are referred to as 'common property', the state has the power to put licensing structures in place for both conservation and economic reasons that will limit who will be allowed

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to harvest these resources. In the late 1960s, using both economic and conservation arguments, the state started to limit access to Pacific salmon by creating limited licences. It was careful to use principles as articulated in Article 6, whereby licences and allocation were based on historical catch and effort, and although the formulas used to create limited licences in many sea resources over the next decades had their flaws and their detractors, there was a conscious effort made by the Canadian government to adhere to the principle of 'fair' access to sea resources that were the basis for the limited licences that the government created.

Government power

There was a real attempt to adhere to the principle that when governments hold the power to allocate access to

*This article is by **Dan Edwards** (danedwards@telus.net), a third-generation fisherman from the village of Ucluelet on the west coast of Vancouver Island, Canada, who has trolled salmon for 40 years and now owns a longline groundfish vessel, in partnership with his son*


the resources they control, they are morally and ethically bound to not arbitrarily remove that access once it has been granted. If that happened, the principle of 'fair' compensation for that removal would follow as the only mechanism that would justify the actions of the state. In the debates with the UN on this point, it has been recognized that nation states have the right to re-allocate but if they do so, in order to not break the fundamental human right of access to a 'fair livelihood', the state must offer compensation.

Several years later, in 1996, the Government of Canada analyzed what it called the 'best use' of the salmon resource and in respect to two species, Chinook and Coho, they decided that this resource would provide more benefit to the people of Canada if it was re-allocated to the recreational angler. Dr. Art May, a former Federal fisheries bureaucrat, was hired to give advice on how best to accomplish this transfer and he articulates the principle of 'fair livelihood' very clearly in his report: "Why should those citizens who have made substantial private investments in boats and gear in order to gain access to commercial fisheries, and which, in light of their commercial licences, they had every right to expect would not be summarily removed, not expect to receive compensation if reduction of access occurs?".

The Canadian government then enacted a policy of priority access to Chinook and Coho for the recreational sector, and it recognized, in the development of that policy, that it would, as May stated, be taking that resource away from a long-established of well over a hundred years—the commercial salmon troller. It stated, at the time, that it would have to develop a compensation mechanism. It then failed to develop that mechanism and, in fact, over the next several years, started to state publicly that with respect to sea resources, there was no obligation to provide compensation.

The remaining troll fishermen's enterprises were unprofitable in six of the last ten years (from 2008 to

2016) due to the application of this policy. The recreational industry is now allowed to harvest salmon resources year-round with an unlimited fleet, while the troller has been severely limited in the number of days allowed to fish, with the excuse being that it cannot be allowed to impact certain weak stocks, while the recreational fisherman continues to have unfettered ocean access to these same weak stocks.

In conclusion, it is obvious that Canada started out with good intentions in respect to the fair access to sea resources in its original application of limited licensing, but, over time, it has drifted dramatically away from those principles, with the result that the remaining commercial troll fishermen are being driven into bankruptcy by the unprincipled actions of their own government. When the actions of the Canadian government in this instance are held up against the principles it has signed on to in its commitment to human rights, it appears to have failed to protect the rights of a specific group of its citizens: the commercial troll fishermen. The Canadian government needs to uphold its national and international human-rights commitments to these citizens, and develop a fair compensation framework in order to repair the damage it has done. 

For more

<https://smallscales.ca/2014/04/30/canada-missing-big-opportunity-to-support-its-small-scale-fisheries/>

Canada Missing Big Opportunity to Support its Small-Scale Fisheries

http://www.un.org/depts/los/nippon/unff_programme_home/fellows_pages/fellows_papers/capistrano_0910_philippines.pdf

Indigenous Peoples, Their Livelihoods and Fishery Rights in Canada