Exercising Sovereignty on the Sea

Even as capital divests fishers the world over of their access rights in the fisheries, in North America, the Passamaquoddy tribe is exercising its sovereignty on the sea

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In the battle for resources in North America, the triumph of technology and capital over the rights of indigenous peoples and historical user groups has long been celebrated as "progress". But in 1980, a historic legal verdict changed the balance of power between a sovereign nation of Native Americans and the United States (US) government. A US court recognized the legitimacy of the claim of the Passamaquoddy tribe to over 2 mn acres in the State of Maine, and the tribe settled for a sum of US$12.5 mn and 150,000 acres of land. While the land is important, the tribe also has a profound connection with the sea—Passamaquoddy means "people who spear pollock"—and while tribal leaders agreed to abide by Maine laws on land, they refused to give up their fishing rights. This sovereign right to marine resources is today helping leaders, such as tribal councilman Fred Moore III and tribal planner Vera Francis, to reaffirm their people's long-standing reliance on the sea.

In early 2012, after many years of careful consideration, the joint tribal councils authorized Fred Moore to codify tribal values in a comprehensive fisheries management plan that would promote appropriate technology, widespread access rights, and equitable distribution of fisheries-generated wealth. "It's a means to grow the traditional economy through traditional activities," says Vera Francis.

VERA FRANCIS

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In response, Fred drafted an ambitious plan that asserts the tribe's fishing rights in waters up to 200 miles offshore and along more than 350 miles of coastline in the US and Canada, in all over 35,000 sq m of ocean. Recently nominated to the tribal fisheries commission, Vera has been one of the first to view the plan and the chart of the proposed fishing area.

"Those currents out there tell the story of our relationship with the sea," says Vera, pointing to the swirl of waters on the chart where the warm core eddies from the Gulf of Maine mix with the icy Labrador Current. The vastness and complexity of interrelationships between oceanography, weather, biology and a host of other variables reflect the thousands-of-years old, and equally vast, history the Passamaquoddy have in these waters.

While Fred Moore re-establishes Passamaquoddy presence on the high seas, harvesting lobsters, scallops, fish, snow crab and marine mammals, and encouraging other tribal members to follow him, on her part, Vera is convinced that the entire tribe needs to embrace fisheries at a deeper level. "Although at this point," says Vera, "most tribe members are unaware of the actual plan, once it has been refined to truly reflect Passamaquoddy-owned and -controlled fisheries management, they will probably see its great importance." The plan will, therefore, be reviewed and vetted by the entire tribe. "Our fishers are telling the world that we are still here," says Vera, "that ours is a marine-based culture, but it doesn't operate in isolation. There is a community here supporting us." According to Vera, the management plan represents a potential revitalization of traditional modes of production and ownership. She explains this with an example: "I like the food I grew up on and I know how essential this food is to keeping us informed about who we are. We harvest certain fish at certain times; we eat them when it is the right time for them to be eaten." Vera is referring to sustainable production patterns developed over many thousands of years, a worldview that is incorporated into the fisheries management plan as it envisions a viable fisheries for the Passamaquoddy in the 21st century.

However, Vera emphasizes that the plan belongs to the tribe, not just the individuals who go to sea. "We need to keep this open and transparent," she says of the plan and

the practice. "Considering the import of Passamaquoddy fisheries, the plan may even require a referendum, which will have to be prefaced by community public hearings and broader invitations for participation. The scale of this document's import is what demands thoroughness and careful deliberation from the get-go."

Central to the plan is the Passamaquoddy view of sovereign right and responsibility. "Sovereignty isn't reckless," says Vera. "It's respectful. We can't claim a homeland and not respect the right of fish to a homeland. That includes protecting the right of fish to ancestral spawning grounds and nurseries." As an example, Vera points out that recreational fishing interests have lobbied the State of Maine to block the passage of alewifes (*Alosa psuedoharengus*) coming from the sea to many lakes in Maine's St. Croix watershed, because the alewifes eat the eggs of bass, an anglers' favorite. "The alewifes have a right to come home," she says.

The Passamaquoddy's interest in protecting its resource base covers activities from the watersheds to the deep sea, and Vera acknowledges that litigation aimed at polluters and destructive harvesting is not out of the question. "We'll also be looking offshore, at ways we can protect the rights of fish to their spawning grounds, nurseries, and feeding grounds." The plan already stakes out jurisdiction over Maine's scallop fishery. Says Vera: "The plan, by default, rejects the State's management over the scallop fishery because Maine has categorically failed in its duty to keep Cobscook Bay scallop fishery healthy or sustainable." But, she notes, there are capacity issues that hamper the tribe's ability to implement its plan. The 4,000 members of the tribe live on two reservations, Pleasant Point on the coast, and Indian Township, 30 miles inland. At Pleasant Point, fishing infrastructure is limited to a seasonal wharf and an exposed harbour. As the older fishers pass on, the younger fishers lose critical sources of hard-won knowledge and understanding, and the tribe has few boats that can operate safely in the large area it plans to access. "Obviously, we're going to need boats, and our fishers are going to need training," says Vera, but she is committed to the idea. "Passamaquoddy fisheries development has the potential for keeping the tribe close to its marine-based culture and its responsibility to protect that which has sustained us all,"

Whereas the architects of past destruction now advocate privatization and consolidation of access rights to the remaining resources, the Passamaquoddy tribe has made an unexpected entry into the discourse. Using the legal power of centuries-old treaties that recognize the inherent human rights of the tribe to its life modes, the Passamaquoddy are offering an entirely new paradigm for fisheries management, based on a history of sustainable fisheries rooted in respect.

How much of the Passamaquoddy plan will be realized is still uncertain. It has already borne fruit in that it has infused many disenfranchised fishers with hope of reclaiming access to privatized fisheries. The tribe's access to, and oversight of, marine resources has the potential to restore depleted stocks and ravaged ecosystems, and ultimately bring the wealth generated by healthy fisheries home to the people with the longest historical reliance on those resources. For the Passamaquoddy, fisheries health equals cultural and physical health, and that is inherently the case for humanity: we cannot create a healthy society in the absence of healthy oceans tied to flourishing terrestrial ecosystems.

The Passamaquoddy are offering an entirely new paradigm for fisheries management, based on a history of sustainable fisheries rooted in respect, and the practice of establishing conservation policy prior to fisheries development.