

Power and Politics

**Nuu-chah-nulth First Nations
West Coast of Vancouver Island
British Columbia, Canada**





***Objective:* Contribute to Community Livelihood from sea resources in the Nation's territories**

Historical context

- Fishing people on the outer west coast of Canada for over 5,000 years
- Post-contact populations decimated (~90%) through disease
- Cultural and language loss through government “assimilation” programs (e.g., residential schools) and laws prohibiting cultural practices
- Specific attacks to restrict “power” of First Nations through *Indian Act*:
 - Forced relocation to small coastal “Indian reservations”
 - Prohibition on large gatherings (e.g., potlatches) and political organizations
 - Ban on *anyone* hiring legal representation to pursue claims against government
 - Not allowed to vote until 1960

Loss of Access to Fisheries (Power Shift)

- European settlers initially relied on First Nations for fish for food, and local fishing knowledge and harvest methods. Eventually settlers and immigrant fishers displaced indigenous harvesters.
- Settlers were assisted by Canadian laws, regulations and policies under *Indian Act* and *Fisheries Act* to exclude indigenous fishers.
For example:
 - Prohibiting traditional harvest methods, e.g., salmon weirs and traps
 - Excluding indigenous harvesters through licence limitation schemes that set thresholds above normal Nuu-chah-nulth harvest levels (halibut 1960's)

No Access, No Money, No Say, No Political Influence =

NO POWER

Changing Times? (slowly, very slowly ...)

- **Constitution Act (1982) recognizes and affirms Aboriginal Rights and Title**
- **Largely failed modern-day treaty process, in large part due to refusal of Canada to increase and protect fisheries through treaty process**
- **2006: Nuu-chah-nulth Nations go to court to have aboriginal rights recognized**
- **2009: BC Supreme Court rules five Nuu-chah-nulth Nations have Aboriginal Right to “fish and sell” and right infringed by Canada’s regulations and policies**
- **Courts provide 2½ years to negotiate a new fisheries regime (to 2011)**
- **Canada refuses to enter into substantive negotiations (power block); instead sticks to path of integration into existing regular commercial fisheries**
- **Appeals by Canada: 2014 Supreme Court of Canada confirms trial decision**

Changing Times? (new government rhetoric)

- **2015: Harper Conservative government replaced by Trudeau Liberals**
- **LOTS of promises and good intentions stated by PM Trudeau and his Ministers about “new relationship with Indigenous Canadians” but has anything changed?**
 - **In the Nuu-chah-nulth case, Liberal government DoJ lawyers continued the very aggressive, anti-rights legal position of Conservative government**
 - **Concurrent meeting with three key Ministers (Fisheries, Indian Affairs, Justice) June 2016 saying all the right things, but do nothing substantive in next 1½ years to implement rights-based fisheries for five Nations**
 - **Fisheries access is the same under “new” government as under Harper Conservative government, despite promises to increase access under preferred means, rights-based fisheries**

Community attempts to gain power

Nuu-chah-nulth communities employed at least a dozen coordinated strategies, tactics and actions to achieve the objective of increased fisheries access (power gain)

• Litigation	• Education/awareness	• Direct Action
• Negotiation	• Lobbying	• Protests
• Collaborative management	• Correspondence	• Strategic voting
• Capacity building	• Media	• Unilateral mgmt.
• Existing government programs		

Note: come to Session 4E Tuesday at 15:00 (SB 201) on “Conservation and Rights”, joint presentation with Merle Sowman on South African and Nuuchahnulth S&T

Community Power

- **Communities do have power: strong governance, solid principles, history, persistence, patience, amazing (spiritual) connection place and to sea resources;**
- **but not the kind of power that translates into immediate, tangible results in a modern economy**



Conclusions (of a career First Nations bureaucrat)

- **Power: government has the power; not clear where the power resides; resistance to change is pervasive within government**
- **Either PM and Ministers are lying directly to Canadians, First Nations and Nuuchahnulth or they have little control over their bureaucracies**
 - **Likely (hopefully?) the latter; bureaucrats can be very good at controlling outcomes**
- **Existing industries (commercial and recreational fisheries) have power and apparent undue influence over government**
- **Federal political pressure in Canada means changing seats in Parliament;**
 - **Nationally, First Nations can influence some swing ridings, but for Nuuchahnulth area, Vancouver Island seats are not important to govern in Canada**
- **Real change (power shift) requires multi-generational, strategic, persistent pressure on government**
- **Small steps forward, hopefully smaller steps backward**
- **Long-term: First Nations likely gain power and access to sea resources**