

Indigenous Governance and Federal Marine Protected Areas

Minister's National Advisory Panel on
Marine Protected Area Standards
Vancouver - 6 April, 2018

Canada 

Introduction

- Indigenous peoples have long managed, used, governed and conserved their territories and natural resources using Indigenous knowledge, practices and institutions.
- Historically, protected areas in Canada often involved Indigenous rights violations and loss of access to traditional territories and resources.
- In recent decades:
 - Growing international recognition and support of Indigenous leadership and self-determination with respect to protected areas and conservation.
 - In Canada, Crown agencies and departments have adopted a range of models for including Indigenous peoples and perspectives in protected area management and decision-making.
- Numerous domestic reports/recommendations and processes are calling for stronger Indigenous governance of protected areas. This includes a conversation about Indigenous Protected and Conserved Areas (IPCAs).

Outline

- A. Current Indigenous involvement in federal MPAs
 - *Oceans Act* MPAs
 - National Marine Conservation Areas (NMCAs)
 - National Wildlife Areas (NWAs) and Migratory Bird Sanctuaries (MBSs)
- B. International context
- C. Canadian context – reports, recommendations and other drivers of change
- D. Emerging opportunities for further Indigenous Involvement
- E. Linking to the Panel’s mandate

Current Indigenous Involvement in Federal MPAs

- Canada's National Network of Marine Protected Areas (MPAs) includes a range of federal conservation tools implemented by:
 - DFO
 - Environment and Climate Change Canada
 - Parks Canada Agency
- MPA Networks include:
 - Oceans Act MPAs
 - National Marine Conservation Areas
 - marine components of National Parks
 - marine components of National Wildlife Areas, Migratory Bird Sanctuaries
- Currently, these tools allow for a range of Indigenous involvement in federal marine protected areas, from participation in advisory boards to co-management arrangements.

Current Indigenous Involvement in Federal MPAs

Oceans Act MPAs

- The *Oceans Act (OA)* provides an enabling environment
 - Section 32(c) allows for establishment or recognition of advisory or management bodies jointly with “affected Aboriginal organizations”
 - Section 2.1 specifies that nothing in the Act shall be construed as to abrogate or derogate from any existing aboriginal or treaty rights
- Some OA MPA co-management bodies have been established under modern land claim agreements.
 - Provide advice and recommendations to the Minister, with ultimate decision-making authority resting with the Minister.
- OA MPAs outside of modern land-claims environment – Indigenous involvement is typically through multi-stakeholder advisory committees and/or bilateral engagement efforts.
- OA MPAs respect indigenous rights to fish for food, social and ceremonial purposes where conservation is not a concern

Current Indigenous Involvement in Federal MPAs

Parks Canada Agency (PCA): NMCA's and Marine Portions of National Parks

- Cooperative management is a common feature in national parks, national marine conservation areas, and other marine areas administered by PCA.
- Both the *Canada National Marine Conservation Areas Act* and *Canada National Parks Act* contemplate the participation of Indigenous peoples in the planning, management, and operations of marine areas administered by PCA.
- Modern treaties and land claim agreements include provisions for consultation and cooperation in marine areas administered by PCA, and in some cases Impact and Benefit Agreements as a prerequisite for establishment.
- “Reserves” are created in circumstances where the area is subject to an Aboriginal rights claim accepted by the Government of Canada.

Current Indigenous Involvement in Federal MPAs

Environment and Climate Change Canada (ECCC): NWAs and MBSs

- Traditional Indigenous practices and activities (e.g. access and harvest) are allowed in all portions of NWAs and MBSs.
- Co-management committees have been established where NWAs and MBSs fall under modern land claims (e.g. 8 MBSs and 5 NWAs in Nunavut; 1 NWA in Yukon).
 - Advisory role, making recommendations to the Minister on all aspect of protected areas planning and management. Recommendations made are consensus-based or voted by majority. Ultimate decision-making and authority remains with Minister.
- *The Canadian Wildlife Act* is a more flexible instrument (than the *Migratory Birds Convention Act*) and better suited for establishing collaborative management arrangement for NWAs.
- Scott Islands will be the first NWA that is entirely marine; it will be collaboratively managed with the Quatsino and Tlatlasikwala First Nations.

From co-management to joint decision making:

- Edézhíe will be established by the Dehcho First Nation under their traditional law as one of the first formally-recognized IPCAs in Canada. The Decho First Nation also propose that it be a NWA with a joint decision-making mechanism.

International Context

- Increasing international recognition of the contribution of Indigenous-led conservation to biodiversity.
- Increasing recognition and support of Indigenous leadership and self-determination with respect to protected and conserved areas.
 - Indigenous Protected Areas (IPAs) in Australia since the late 1990s (mostly terrestrial)
 - The International Union for the Conservation of Nature (IUCN) and the United Nations Convention on Biological Diversity (CBD Parties) – Recognition of ‘Indigenous and Community Conserved Areas’ (ICCAs) (early 2000s)
- IUCN Guidance
 - IUCN guidance on protected areas management categories acknowledges Indigenous rights, responsibilities, and priorities.
 - The IUCN recognizes four broad types of protected areas governance, including governance by Indigenous peoples and local communities.

Canadian Context:

Reports, Recommendations and Other Drivers of Change

Reconciliation

- **The Government of Canada is committed to renewing its relationship with Indigenous peoples, making the recognition and implementation of rights the basis for all relations between Indigenous peoples and the federal government.**
- Developing this renewed relationship includes:
 - A commitment to implement the United Nations Declaration on the Rights of Indigenous Peoples (2016)
 - A comprehensive review of laws and policies related to Indigenous peoples (Working Group of Ministers) (commenced 2017)
 - A commitment to develop – in full partnership with First Nations, Inuit, and Métis Peoples – a Recognition and Implementation of Rights Framework to be implemented before October 2019.
 - Recognition of Indigenous rights and self-determination discussion tables
- These initiatives provide an opportunity for stronger collaboration with Indigenous groups on national oceans policies.

Canada 

Canadian Context:

Reports, Recommendations and Other Drivers of Change

“Taking Action Today: Establishing Protected Areas for Canada’s Future” – House of Commons Standing Committee on Environment and Sustainable Development (ENVI) 2017 Report:

- Recommends that Canada pursue common conservation objectives and reconciliation through a nation-to-nation relationship with Indigenous peoples. Including:
 - Pursue the expansion of federal protected areas to protect areas of highest ecological value within traditional territories of Indigenous peoples;
 - Implementing and respecting co-management arrangements;
 - Establish a federal point-of-contact with decision-making authority to facilitate negotiations for federal protected areas in Indigenous territories;
 - Work with Indigenous peoples to designate and manage Indigenous Protected Areas (IPAs) within traditional territories, and incorporate these areas into Canada’s inventory of protected areas by amending applicable legislation.

Canadian Context:

Reports, Recommendations and Other Drivers of Change

A New Shared Arctic Leadership Model Report (2017)

- Mary Simon was Minister Bennett’s Special Representative on Arctic Leadership tasked with providing advice on two topics:
 - new ambitious conservation goals for the Arctic in the context of sustainable development
 - the social and economic priorities of Arctic leaders and Indigenous peoples living in remote Arctic communities

The Report Recommended:

- A “conservation paradigm shift in the Arctic” – **“a conservation economy”** in which conservation is tied to building and maintaining strong and healthy communities.
- **Recognize existing land and marine conservation planning designations.**
- A **“whole of government approach”** to impact and benefit agreements that meet or exceeds best global standards.
- Long-term stable funding to support locally-driven terrestrial guardians and Arctic **coastal and marine stewardship programs.**

Canadian Context: Reports, Recommendations and Other Drivers of Change

A New Shared Arctic Leadership Model Report (2017)

- Indigenous Protected Areas (IPAs) as one tool to achieve a conservation economy.

“IPAs are based on the idea of a protected area explicitly designed to accommodate and support an Indigenous vision of a working landscape.”

- IPAs could “decolonize conservation” and contribute to healing and reconciliation by:
 - i. supporting communities and individuals in regaining land-based life skill;
 - ii. reconnecting youth with their cultural traditions and language;
 - iii. collecting and documenting Indigenous knowledge;
 - iv. guaranteeing that there will always be places that are theirs.

Canadian Context:

Reports, Recommendations and other Drivers of Change

Pathway to Canada Target 1

- As part of the Pathway initiative, governments are considering ways to support Indigenous peoples as partners in conserving at least 17% of Canada's lands and freshwater by 2020.
- All aspects of the initiative are being carried out in a manner that reflects the concept of Ethical Space – a co-created space where Indigenous and western knowledge systems are treated as equal and work together in a respectful way.
- An Indigenous Circle of Experts (ICE) was created to provide advice and recommendations on the contribution of IPCAs to achieving Canada's biodiversity targets.
- Recommendations of the Circle are broadly applicable to the marine environment and could be used to inform further engagement with Indigenous partners on marine protected areas.
- Reports of the Circle and the National Advisory Panel for the Pathway initiative are informing the development of a pan-Canadian plan, targeted for release in Spring 2018.

Ongoing and Emerging Opportunities for Further Indigenous Involvement

- **MPA network development in five priority bioregions**
 - Development of networks of MPAs is advancing in the Pacific North Coast, Western Arctic, Estuary and Gulf of St Lawrence, Scotian Shelf and Newfoundland and Labrador Shelves.
 - This work is conducted with Indigenous groups and communities and others
- **MPA establishment**
 - Identifying sites for protection across all federal instruments with Indigenous groups and communities and others to meet our marine conservation targets and beyond will continue.
 - Potential for discussion on IPCAs.
- **The Pikialasorsuaq (North Water Polynya)**
 - The 2017 Pikialasorsuaq report calls for the establishment of an Inuit Management Authority for the Pikialasorsuaq that would be akin to an IPA.
- **Whole-of-Government approach to impact and benefit agreements for MPAs**
 - A whole-of-government approach is being developed to support a common direction and effort across federal programs for these agreements

Emerging Opportunities for Further Indigenous Involvement

- **DFO has a mandate commitment to work with the provinces, territories, Indigenous peoples and other stakeholders to better co-manage our three oceans.**
 - New opportunity to establish collaborative governance structures to carry out marine use planning activities (which includes MPA network development) to support the new impact assessment process.
 - Governance arrangements will be supported by formal agreements.
For example:

Northern Labrador: The Imappivut Initiative

- 2017 Statement of Intent between Canada and the Nunatsiavut Government to advance an integrated vision for the oceans around northern Labrador.

The Pacific North Coast Integrated Management Area (PNCIMA):

- A Reconciliation Framework Agreement for Bioregional Oceans Management and Protection between Canada and fifteen First Nations along the Pacific North Coast
- A tri-lateral Letter of Intent between Canada, the Province of British Columbia and Pacific North Coast First Nations to facilitate implementation of the PNCIMA plan, endorsed in Feb 2017



Linking to the Panel's Mandate

- There is movement internationally and in Canada towards greater recognition of Indigenous leadership and self-determination with respect to conservation and protected areas.
- IPCAs are one of multiple tools that could facilitate this movement.
- Canada and Indigenous partners are beginning to consider the IPCA concept for the marine environment.
- The Indigenous Circle of Experts and New Shared Arctic Leadership Model reports provide a launching point for these conversations.
- In fulfilling its mandate the Panel may wish to consider:
 - situating its recommendations within the Reconciliation context;
 - the importance of Indigenous laws, authorities and knowledge systems in marine conservation;
 - how marine IPCAs may correspond with categories and standards as well as current federal MPA instruments.