

Deescalating the Lobster War

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ABSTRACT

When the Sipekne’katik 🦞 tribe launched a lobster fishery off the coast of Nova Scotia, their off-season use elicited a violent response from commercial fishermen, who did not recognize their treaty rights for this usage. The Mi’kmaq people, of which the Sipekne’katik are part, are expanding treaty fisheries, increasing the likelihood of tensions and violence if action is not taken.

While there are many large and systemic factors, like racism and historical tensions, at play, there are opportunities to deescalate the situation in the short and long-term. This poster gives an overview of how design principles from Eleanor Ostrom’s (1990) Institutional Analysis and Development Framework for common pool resource management can be used to identify and transform individual components of a common pool resource dilemma and build cooperative and self-governing enterprises from the ground up. The combination of design principles are the result of her Nobel Prize-Winning research into how local communities around the world successfully manage their resources.

INTRODUCTION AND PURPOSE

Common Pool Resource - Fisheries present a classic common pool resource dilemma, balancing the needs of the many with the needs of the few. Resource management has driven both conflict and creative solutions throughout history, from international *cod wars* between Iceland and the United Kingdom, to regional salmon habitat management in the Pacific Northwest U.S., the territorial *harbor gangs* of Maine’s lobster fisheries, and the hyperlocal method of allotting and rotating fishing spots in the Alanya fishery of Turkey (Anderies & Jansen, 2013; Bickers & Williams, 2001). It is clear that community and environmental factors have an important impact on management strategies in these systems.

Purpose - Since September 2020, a new conflict has been unfolding in Nova Scotia’s lobster fishery, between Indigenous and commercial fishermen who are operating under two different systems of governance, and who both have legal rights to access the fishery. Because of the relatively stationary nature of lobster, these communities will continue to interact, with the potential for escalating conflict and violence. Therefore, it is in the best interest of all parties to de-escalate the situation in such a way that the resource is properly managed, and the health, safety, and legal rights of the actors are protected.

RESULTS AND DISCUSSION

Action Situation - The Sipekne’katik tribe launched a *moderate living* fishery off the coast of Nova Scotia, Canada (MacDonald, 2020). Their off-season use of the fishery elicited violence, threats, arson, and sabotage by commercial fishermen (Bilefsky, 2020). The Mi’kmaq people, of which the Sipekne’katik are part, are expanding treaty fisheries, increasing the likelihood of tensions and violence if action is not taken.

Rules and Norms - Eastern Canadian First Nations treaty rights allow tribes to make a moderate living off the land(and sea) by way of trade, year-round. Commercial fishermen must follow seasonality and catch limits. When the tribe fished off-season, the commercial fishermen attempted to apply their rules via extrajudicial and destructive sanctioning.

Exogenous Variables: Biophysical Aspects - The action arena includes a lobster fishery that supports many livelihoods, but has produced diminishing stocks in recent years. Female and small lobsters must be thrown back to protect the population and the commercial season in Nova Scotia runs from November 30 to May 21, leaving a break for the summer molt (Bilefsky, 2020) Commercial fishermen argue that indigenous fishing during this vulnerable time will cause too much damage to stocks, but their concerns are not supported by data or experts (Bailey, n.d.; Coletta, n.d.). By comparison, Maine supports a year-round fishery by producing lobster for local consumption during the summer months.

Attributes of Community - Attributes of community include shared values, culture, common understanding of mental models, heterogeneity of positions such as class and caste systems, size, and distribution of assets (Anderies & Jansen, 2013). Not only is there a cultural and socioeconomic divide between indigenous people and the descendants of settlers, but a history of genocide, maltreatment, and denial of treaty rights of natives by colonizers. While many indigenous people are embedded within the dominant western culture, those who are close to their ancestral roots and modern tribal culture hold a different worldview based in a fundamentally different spirituality and understanding of origin. Racism against indigenous people and the friction of living under two separate, but overlapping, systems of government can also erode common understanding.

PROPOSED SOLUTION/RECOMMENDATIONS

Enforcing Current Standards - The attributes of community, rules, and norms feed into the conflict between commercial and indigenous fishermen. It is unlikely the commercial fishermen would react with the same level of sabotage and violence toward non-native commercial fishermen who stray from the rules. In the current scenario, the police were criticized for being slow to respond to a call from an indigenous fisherman who was being attacked by a mob. It appears that commercial fishermen are aware of the relative positions of Indigenous people and colonizers—*de facto* rules in the situation—in that the police will respond when the property damage is commercial, but fail or delay response to calls from tribal members. These separate *de facto* rules of enforcement can be seen across a broad range of societies and cultures where the dominant culture has more resources and better protection under the law than less affluent and marginalized communities. These outcomes feed into a system of distrust between commercial and indigenous fishermen, distrust in government enforcement, and distrust in the laws that govern the common pool resource. The government must hold bad actors accountable, enforce current rules, and protect treaty rights until local institutions can be fortified from the bottom-up and tensions have a chance to ease.

Proving Viable Coexistence - There are two sets of rules that contradict each other. In order to create better outcomes, efforts could be made to show that separate rules make sense. The amount of non-commercial fishing that is happening has not been shown to affect commercial stock. A limited fishing area outside of commercial fishing season could be studied as a proving ground to test that the small, indigenous operation is not adversely affecting lobster stock over time. Additionally, the community could look toward their counterparts in Maine to see how they are able to efficiently manage a year-round harvest with their self-monitoring system of *harbor gangs*, and extend year-round fishing to all. Finally, cooperation scholarship and game theory shows that a slow reduction in retaliation or defection from the norm can effectively deescalate a situation without earning a reputation for weakness or compromising your bargaining position (Axelrod, 2006). While indigenous people have historically been forced to concede their position, the indigenous leaders have an option to *temporarily* reduce or eliminate their use of off-season fisheries in order to decrease violence while community-driven solutions are put into place.

Building From the Bottom-Up - Community-driven *monitoring* is an important IAD design principle, and another source of conflict here. The commercial fishermen are attempting to monitor and sanction the indigenous fishermen, but they have no authority in the situation. Further, their sanctions are extreme, rather than graduated and appropriate to the (perceived) offense. This illuminates an opportunity to create a local council that involves members of both appropriation groups in order to monitor the resource. The interaction between the communities is an opportunity to build trust and regulatory buy-in from all parties, which could further serve to deescalate the situation. The local council could also work on defining *graduated sanctions* and *conflict-resolution mechanisms* and gradually reducing reliance on the federal government to regulate the fishery. The top-down, federal approach to this fishery has resulted in a lack of feeling of control at the local level. Local councils, if instituted, would need to be respected by the federal government in order to satisfy the *recognition of rights to organize*. The federal government must not back out and leave a power vacuum initially. They should focus their efforts on supporting the formation of *nested local monitoring structures* and do everything in their power to set them up for success.

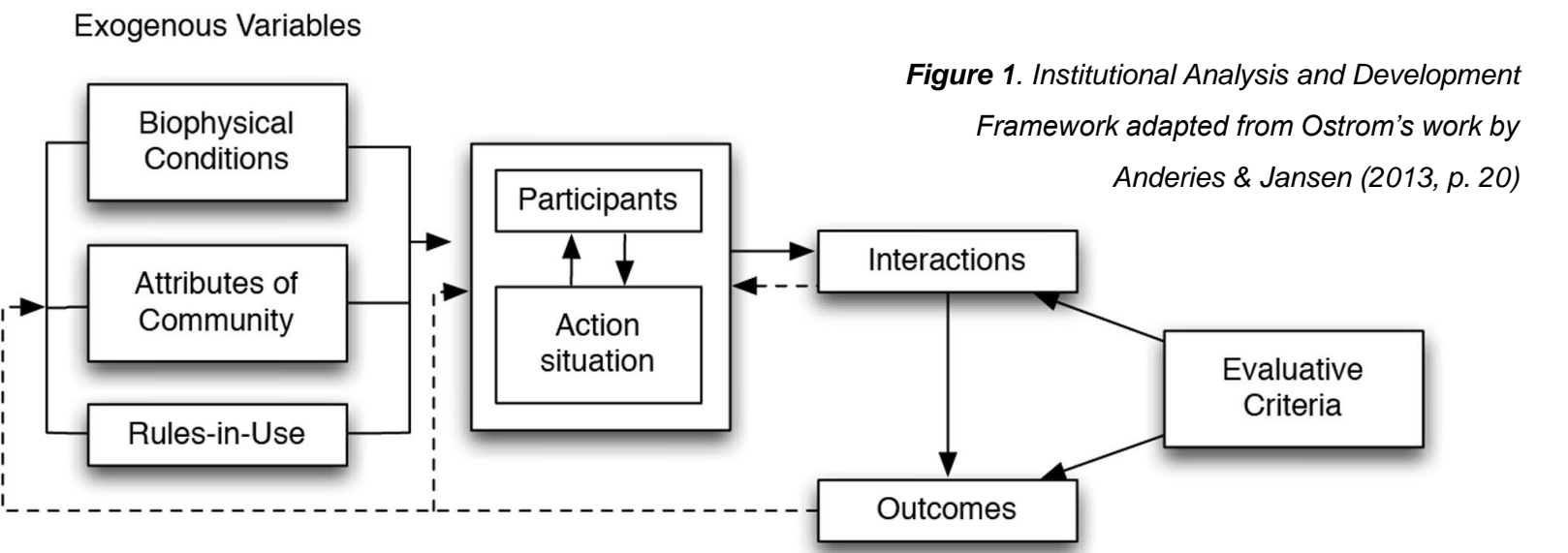
METHOD(S)

Analysis through Institutional Analysis and Development (IAD) framework

- Defines the ways in which humans structure their repetitive interactions as *institutions*.
- Institutions are prescribed by the rules and norms that structure them, and are affected by exogenous variables like biophysical realities and community attributes. (Anderies & Jansen, 2013).
- All components interact within the action arena, where individual action situations can be observed and analyzed.
- The outcomes of action situations and interactions with aspects of community and the biophysical world feed back into the process to inform how rules and norms are shaped and how interactions play out in the future (Anderies & Jansen, 2013). For a graphical representation of this process, see Figure 1.

Analysis through Design Principles

- Eight commonalities that contribute to self-governing resource management.
- They include: clearly defined boundaries, congruence with local conditions, collective-choice arrangements, monitoring, graduated sanctions, conflict-resolution mechanisms, minimal recognition of rights to organize, and nested enterprises (Ostrom, 1990).



CONCLUSIONS

The conflict over the lobster fishery in Nova Scotia provides an opportunity to observe the problems of managing a common pool resource. From a broad perspective, there are overlapping deep and systemic issues playing into the conflict, from racism to environmental and economic factors to governance. The IAD framework provides clarity and guidance to begin to take informed action to deescalate conflict. Ostrom's design principles suggest there is an opportunity to create cooperation and deescalate tensions at the local level. The goal is to support indigenous treaty rights while convincing the commercial fishermen to buy-in to the idea that they are not under threat in order to deescalate the situation—the indigenous and commercial fishermen have a shared interest in the sustainable, robust, and enduring production of the fishery.

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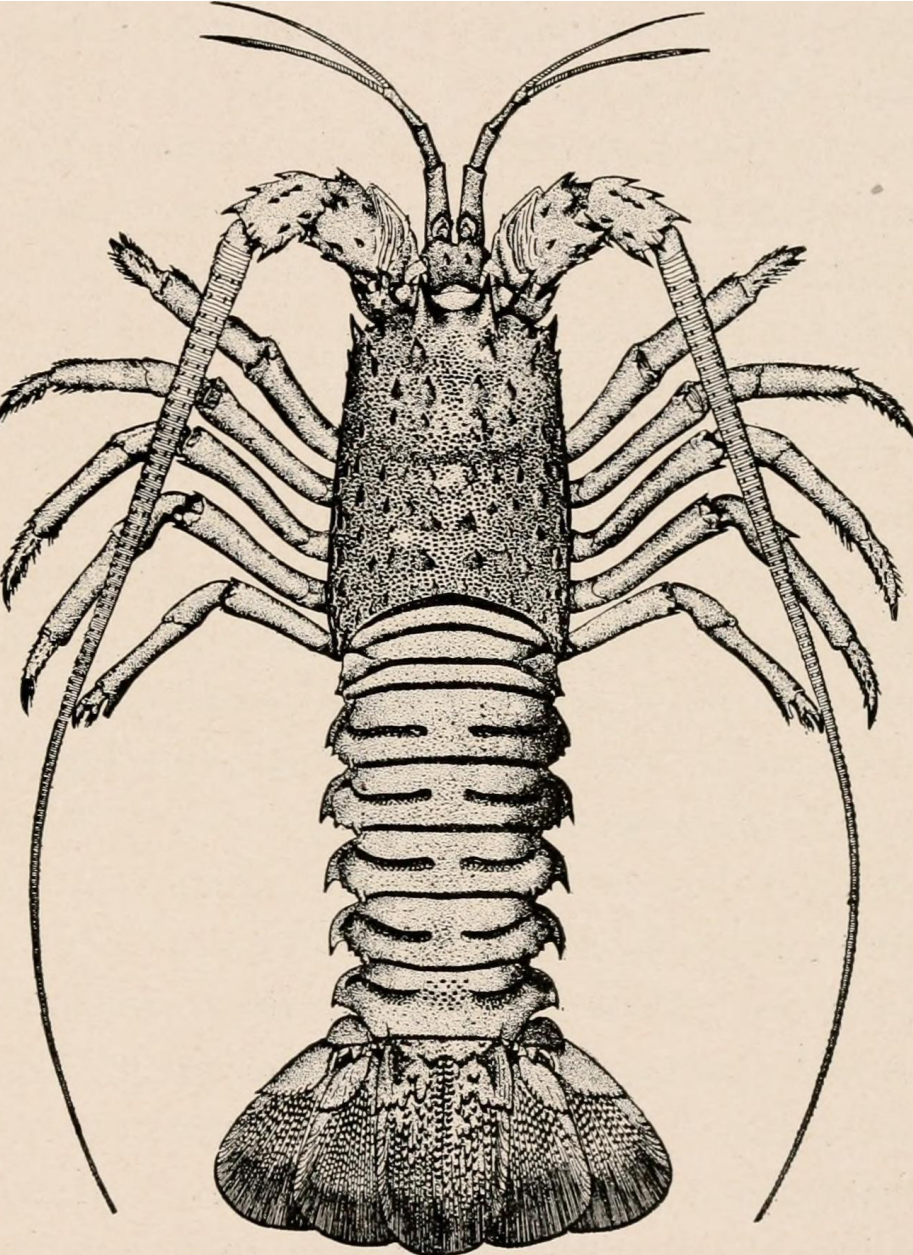
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