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## It's high time to upgrade the Fisheries Act

This government has promised to restore lost protections in it. Here's how it can modernize this important law.



Fisheries Minister Dominic LeBlanc has been tasked with reviewing the previous government's changes to the Fisheries Act, restoring lost protections, and building in modern safeguards. *The Hill Times* photograph by Andrew Meade

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If once upon a time the belief that fisheries were an endless natural resource was common, it is now abundantly clear that it is not. Fisheries are declining fast around the globe, and Canada is not exempt from this.

For example, the Committee on the Status of Endangered Wildlife in Canada (COSEWIC), an independent advisory panel to the environment minister, has recently recommended that some populations of British

Columbia's emblematic Fraser River sockeye salmon be listed as endangered under the Species at Risk Act (SARA).

Sadly, the dire state of our fisheries seldom gets the attention it deserves.

Yet, fisheries are crucial for the well-being and survival of many Canadians. In 2015, the gross value of commercial fisheries, aquaculture production, and seafood products was \$9.5-billion. These sectors employed over 72,000 people. Seafood is also vital for the food security of many settler and Indigenous communities, especially in the North. Fisheries play an important cultural, spiritual, and even legal role for many Indigenous peoples. Not to mention the intrinsic and ecosystemic value of fish.

Sadly, Canada is ill-equipped to face the challenge ahead given our outdated legislation. The Fisheries Act, adopted in 1868, has not received any substantial change since 1977 when habitat protection was introduced to the regime. Additionally, in 2012, Stephen Harper's government reduced the efficacy of the act's habitat protection provisions.

The Fisheries Act has been incapable of ensuring the proper conservation of fisheries. The collapse of the Atlantic cod fisheries and the rapid decline of the Fraser River sockeye salmon are but two powerful examples of the Department of Fisheries and Oceans' (DFO) conservation failure under the act.

To make matters worse, the federal government seems to systematically limit the application of the SARA to aquatic species by infrequently acting upon COSEWIC's expert recommendations, relying instead on the Fisheries Act to provide "protection."

On the bright side, the current government has promised to reform the Fisheries Act, and it is poised to introduce a bill in early 2018. This is the perfect opportunity to modernize our fisheries regime. It is important, given the urgency of the situation, that we get it right. There are a few points that the future bill should include.

Firstly, the Fisheries Act should mandate the use of an ecosystem-based approach to both fisheries management and fish habitat protection. All parts of an ecosystem are interrelated, and, as such, trying to manage one discrete part without considering the other is counterproductive.

Secondly, the law should ensure that all decisions, programs, and policies related to fisheries are adequately supported by science, Indigenous traditional knowledge, and community consultation, when appropriate. Mechanisms should be put in place to avoid discrepancy between DFO's knowledge and its policy, as is currently happening with the Atlantic cod fisheries where scientific advice is being partially ignored.

Thirdly, a precautionary and preventive approach should be adopted. Precaution would require that when DFO faces uncertainties, as it often does, it treats such uncertainties as a serious risk and adopts stringent conservation measures despite such uncertainties. Prevention would mean, especially in terms of habitat protection, that DFO

should favour options that prevent ecosystem damages instead of ones that simply mitigate them. In cases involving sensitive or crucial ecosystems, or a species at risk, prevention should be the norm, not the exception.

Fourthly, the act should make more space for Indigenous peoples, given their distinct relationship with the resource, and their place within our constitutional order. Specifically, Indigenous peoples should be able to manage their fisheries in accordance with their own laws.

Lastly, the law should have clear stated purposes based on conservation, sustainable use, food security, the socio-economic importance of fisheries, and the unique role of Indigenous peoples. Such legislated purposes will guide the interpretation and application of the act, and hopefully positively influence fisheries management and conservation.

These measures would all serve to circumscribe DFO's discretion, and while flexibility is still needed, they should ensure that decision- and policy-making favour the recovery and longevity of our fisheries. Now it is up to the government to ensure that, this time, the Fisheries Act gets the upgrade it deserves.

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