

Going Back in the Water:
Renegotiating What it Means to be A Mi'kmaq Fisherman
After the *Marshall* Decision

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A thesis submitted to the faculty of the University of North Carolina at Chapel Hill in
partial fulfillment of the requirements for the degree of Masters in the Department of
Anthropology

Chapel Hill
2006

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ABSTRACT

GRETCHEN ELIZABETH FOX: Going Back in the Water: Renegotiating What it Means to be A Mi'kmaq Fisherman After the *Marshall* Decision
(Under the direction of Dorothy C. Holland)

After centuries of struggle with the Canadian state over access to natural resources, Mi'kmaq First Nations recently won a significant legal victory. In a 1999 ruling, the Supreme Court of Canada upheld 18th century treaties guaranteeing Mi'kmaq and their descendents the right to fish for profit in their traditional territories. This landmark ruling fundamentally reconfigured the landscapes where conflicts over Native rights and nature are waged. As a result, Mi'kmaq communities today are experiencing shifts in personal and collective constructions of meaning, practice and identity in the context of fisheries. Some community members advocate communally-based fisheries where profits are re-invested in the community, while others are approaching commercial fisheries in more individualistic ways. This paper explores the local and supralocal conditions under which Mi'kmaq people are relating to changes in the fisheries, drawing on social practice theory to consider how fishermen's identities are being reshaped through contentious practices and meaning-making.

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LIST OF ABBREVIATIONS

1. Aboriginal Fisheries Strategy.....AFS
2. Canadian Department of Fisheries and Oceans.....DFO
3. Interim Fisheries Agreement.....IFS
4. Northumberland Fishermen’s Association.....NFA
5. Royal Canadian Mounted Police.....RCMP
6. Salt Harbour Community Fisheries.....SHCF
7. Supreme Court of Canada.....SCC

CHAPTER I
INTRODUCTION

“We’ve known all along that we were supposed to be in the water.”

Chip Whitmann, Mi’kmaq fisherman

In the summer of 2003, fires were set on the wharf at Shippagan, New Brunswick, a small fishing community on the eastern coast of Canada. Four fishing boats, including a boat owned by the Salt Harbour Mi’kmaq¹ First Nation, and three others owned by the Canadian Department of Fisheries and Oceans (DFO), but being used by Mi’kmaq fishermen, were set ablaze, along with fishing gear, a warehouse, and a fish processing plant. It was the start of snow crab season, and conservation concerns had led DFO to announce a significant reduction in the amount of snow crab that fishermen² in the Atlantic provinces were allowed to catch that season. In response to these restrictions, a mob of angry fishermen took to the streets in Shippagan, protesting the decision and destroying property. Mi’kmaq fishermen, who are not bound by the same regulations as non-Natives, and had decided to fish snow crab despite the ban, were (along with DFO) the targets of these protests.

¹ Mi’kmaq is the spelling most commonly used to refer to Mi’kmaq First Nations peoples, and is the spelling I use in this paper. Other spellings in use include Micmac, Mi’kmaw, and Mi’gmaq.

² The great majority of fisherpersons in Atlantic Canada are men, and local people refer to those who fish as fishermen, so I will do the same in this paper.

The events at the Shippagan wharf are indicative of the volatile climate of commercial fisheries in eastern Canada in recent years. Emotions have run high in fishing communities, and relations between Mi'kmaq, non-Native³ fishermen, and DFO are often contentious at best. In 1999, the Supreme Court of Canada upheld two 18th century treaties acknowledging a Mi'kmaq "treaty right to continue to obtain necessaries through hunting and fishing by trading the products of those traditional activities" (R. v. Marshall 1999). This ruling, known as the *Marshall* decision, came after two and a half centuries of disregard and denial of the treaties by the Canadian government. Although welcomed by Native leaders, fishermen and their supporters, the *Marshall* decision angered many non-Native fishermen in the economically-depressed Atlantic region. They interpreted it as giving unfair economic advantages to Mi'kmaq people who were now able to fish commercially without being bound to the same federally-mandated licensing and catch restrictions as non-Native fishermen.⁴ Concerns were also raised about the impacts of so-called unregulated Mi'kmaq commercial fishing on dwindling fish stocks (CBC 2000b).

Listening to these events unfold over the CBC radio and reading fiery opinion pieces in local and national newspapers in the spring and summer of 2003, I became increasingly interested in the culturally and locally-specific ways that Mi'kmaq fishermen were experiencing conflicts over the lucrative snow crab and lobster fisheries arising since the *Marshall* decision. These fishermen spoke of treaty rights

³ The term Native, rather than indigenous or Aboriginal, was used by the Mi'kmaq people I spoke with, thus it is used in this paper to refer to First Nations peoples.

⁴ Although the *Marshall* decision upheld Mi'kmaq people's treaty rights to fish for profit, the Supreme Court of Canada, in an unusual move, issued a clarification of the ruling stating that the Canadian federal government retained the right to regulate Native fisheries in some circumstances, but not without input from the First Nations affected (Coates 2000).

that had never been extinguished, of their distress at the ways they were being treated by their non-Native neighbors and by DFO officials, and their commitment to responsible resource management. They also spoke passionately about their enduring mistrust of the Canadian federal government. By the end of the summer of 2003, after hearing many news reports about the ongoing conflict, and reading about the history of Mi'kmaq treaty rights activism, I realized that the incident at Shippagan was just one of many sites where Mi'kmaq treaty struggles over natural resources have played out since the 1999 court decision. I began to formulate questions about the effects of the *Marshall* decision on social and cultural life in Mi'kmaq communities. For instance: How were treaty rights struggles in eastern Canada articulating with broader histories of First Nations activism? How were Mi'kmaq cultural identities being produced and reproduced locally in the context of these wider histories and the *Marshall* decision? How has the *Marshall* decision changed how Mi'kmaq people construct meanings about fish and fishing, and how they identify themselves as fishermen and Mi'kmaq? How can Mi'kmaq responses to this court decision be understood in the larger historical context of relations with the Canadian state? Though several recent books and articles deal with the political, historical and legal significance of the *Marshall* decision (see, for example, Coates 2000; Wicken 2002; Knockwood 2003; Isaac 2001; Wiber & Kennedy 2001; and Ross 2001) few focus explicitly on the cultural dimensions of long-term treaty conflicts (see, for example, Barsh 2002). Unlike Native activism in western Canada, about which a wealth of social research has been amassed, it has only been in the last decade—and really only in the six years since the *Marshall* decision—that social scientists have begun to pay close attention to such conflicts on the east coast, and

their significance to larger First Nations social movements for land and natural resources, as well as to local experiences of identity, local knowledge, and resource management (see, for example, A. Hornborg 1994 and A.C. Hornborg 2001).

This paper examines the historic and ongoing engagements of Mi'kmaq people in conflicts over treaty rights, exploring how they are actively constructing identities and negotiating their relationships to fisheries in terms of recent changes in political relations and economic opportunities. Taking an anthropological approach to examining the significance of the *Marshall* decision as a site of change in ongoing Mi'kmaq treaty activism and cultural identity construction, this paper will contribute to the emerging body of research on the sociocultural impacts of treaty claims on First Nations in Canada. More broadly, this paper is a contribution to interdisciplinary research on the co-construction of conflicts over natural resources and local knowledge, practices and identities.

Inspired by the social practice theories of Holland, et al (1998) and Holland and Lave (2001), and the work of Aretxaga (1997), Satterfield (2002), and A. Hornborg (1994), which situate identity formation within larger contexts of both local and large-scale activism and power relations, I attempt to make sense of how one particular type of identity, that of *Mi'kmaq fisherman*, is being made and remade through changing meanings and practices as fishermen refigure their relationships to their communities and to the fisheries in the shifting social and cultural fields of the post-*Marshall* era. I suggest that the endurance of local cultural meanings of fish and fishing are being challenged by the growth of Native commercial fisheries, and the associated modernist, market-based meanings and discourses about nature and natural resources. Just as fishing is changing in Mi'kmaq communities, so too are

the cultural identities which inspire key practices, as well as the ways that Mi'kmaq peoples are rethinking the role of fisheries in Native communities today.

Further, in terms of meaning-making and practice, the *Marshall* decision has created new fields of action for orienting Mi'kmaq culture and tradition, and is creating new situations in many communities where collective interpretations of cultural meanings associated with fishing are coming into conflict with those of individuals as they are renegotiated. Rather than fueling the dichotomy between tradition and modernism in considering shifts in Mi'kmaq engagements with fish and fishing in the post-*Marshall* era, I prefer the “contextualist stance” which Alf Hornborg (2001) takes to describe the co-constructive relationship between historical, embedded knowledge and supra-local, modernist universalism in producing local meanings and practices and the material conditions where they take place.

Research for this paper involved reviewing relevant literature and media reports, interviews with ten people closely involved in Mi'kmaq fisheries, and participant observation on a lobster boat, at community social events, and in other venues, including a conference about the successes of and challenges facing Mi'kmaq fisheries since the *Marshall* decision. These experiences have greatly contributed to my understanding of the recent fisheries situation in Mi'kmaq communities, and unless otherwise indicated, my descriptions of contemporary Mi'kmaq communities and fisheries in this paper come from these interviews and events.

CHAPTER II
THE *MARSHALL* DECISION AND ONGOING
CONTENTIOUS ENGAGEMENTS WITH THE STATE

Six years ago, no one knew quite how the *Marshall* decision would impact the Atlantic Canadian fisheries, though there was much speculation. This landmark decision was one of several significant court rulings since the 1970s which substantially altered the legal and social conditions of First Nations access to fisheries. Rulings prior to *Marshall* had upheld the validity of Mi'kmaq treaties guaranteeing Native rights to hunt, gather and fish for food, shelter and ceremonial purposes; however, the *Marshall* ruling was unique in its defense of Mi'kmaq rights to harvest and sell fish *for profit* (Coates 2000, Wicken 2002).

Mi'kmaq struggles for rights to use and manage natural resources have been ongoing since European colonization of eastern North America in the 17th and 18th centuries.⁵ A number of significant events over the long course of these conflicts

⁵ When British and French explorers first landed on the northeastern coast of North America, the Mi'kmaq were among the first aboriginal peoples with whom they had contact (Micmac History 1999). These first small groups of European travelers were received peacefully by the Mi'kmaq; however, as more European settlers arrived in North America, the Native peoples faced increasing pressures on their land and resources, including the fisheries (Native Council of Nova Scotia 1993). These pressures, coupled with ongoing wars between Britain and France for control over the northern Atlantic coast region, led to the signing of several "Peace and Friendship" treaties between the British and the Mi'kmaq in the mid-18th century (Coates 2000, Wiber 2001). These treaties affirmed Mi'kmaq "rights, freedoms, and liberties, which include, among others the free liberty or right to fish, fowl, hunt, gather and trade as usual" (Native Council of Nova Scotia 1993:7). In turn, Mi'kmaq recognized the presence and authority of the British Crown in the region, and agreed not to ally themselves with competing French interests. No land or rights were ever ceded in these or any treaties entered into by the Mi'kmaq (Coates 2000).

have altered Mi'kmaq people's relationships to natural resources; however, no moment in the recent past has had quite the impact on Mi'kmaq fishing communities than that of the *Marshall* decision (Coates 2000). In an era when several important east coast fisheries perpetually teeter on the edge of collapse, and unemployment in some Native communities climbs above 90%, the *Marshall* ruling is fundamentally changing the conditions under which people are constructing and relating to their communities, local and large-scale economies and their identities as culturally distinct people (Interview with HP 1/05). Thus, it is useful to begin with a consideration of the *Marshall* decision and its historical context.

When Donald Marshall, Jr., a Mi'kmaq fisherman from the Membertou First Nation in Nova Scotia was arrested and charged with illegally capturing 463 pounds of eels for commercial sale in 1993, he protested that his status as an enrolled Mi'kmaq First Nations person (officially recognized as a Native person by his Band and by the government of Canada) afforded him the right to harvest and sell fish. This defense was based on a series of 18th century treaties signed between Mi'kmaq leaders and representatives the British Crown, which claimed jurisdiction over most of New England, including Atlantic Canada, at that time (Caddy 2001; Wiber 2001; and Wicken 2002). As a person of Mi'kmaq ancestry, Marshall asserted that the protections conferred in these treaties continued to apply to him. According to the Canadian federal government, Marshall and his two companions, who sold the eels for a profit of \$800, were fishing out of season, with illegal gear and without a

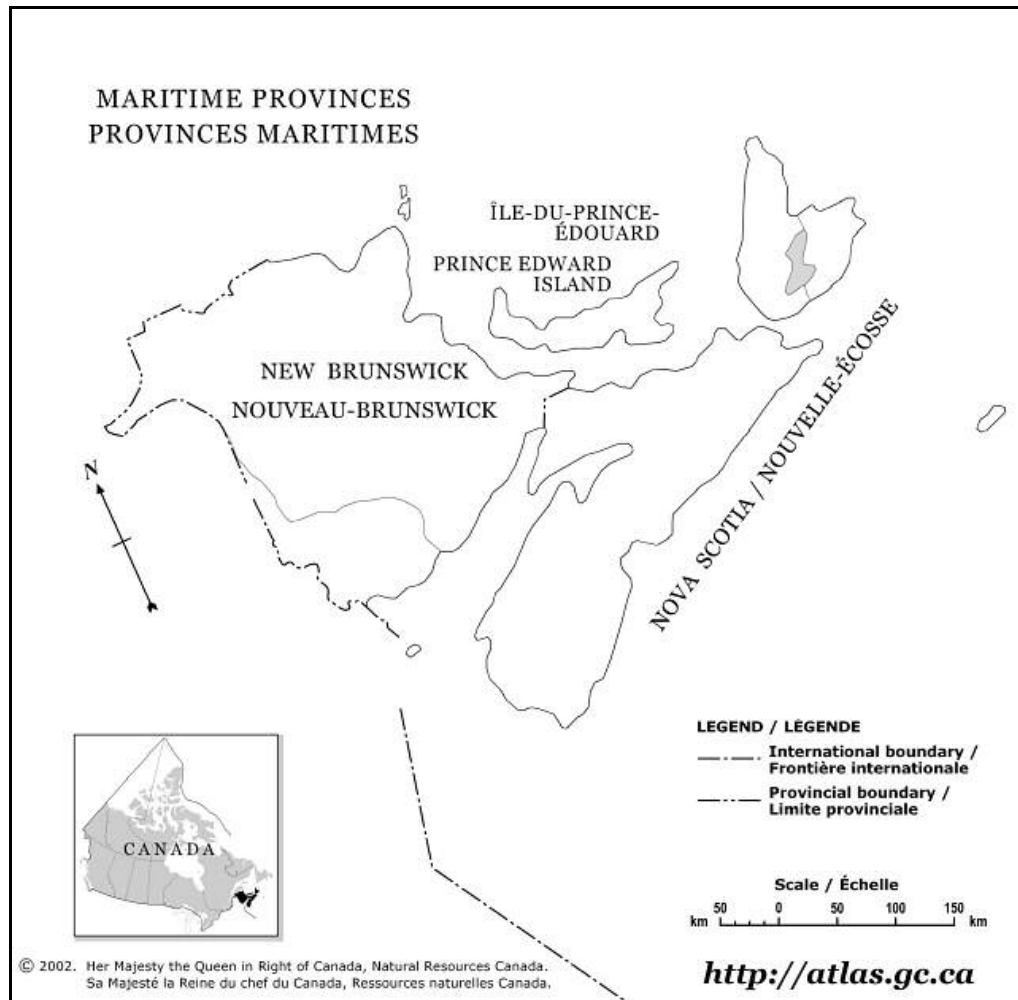


Figure 1: Map of Atlantic Canada. Note: There are also several Mi'kmaq communities in the Gaspé region of Québec, which is not shown here. The Gaspé lies to the north of New Brunswick.

required commercial license (Wiber 2001). Interpretation of these treaties is a main point of contention between the Canadian government and Mi'kmaq leaders today. During the *Marshall* trial, lawyers for the federal government claimed that the 18th century treaties established Mi'kmaq peoples as British subjects, thereby giving the British authorities (and the subsequent Canadian government) the power to regulate Mi'kmaq hunting, fishing and gathering activities (Wicken 2002). Marshall's

defense team countered that the treaties in question must be considered in their historical context, and that Mi'kmaq leaders' understanding of what they were signing differed from that of British signatories. Wicken (2002:89), a historian who gave testimony for the defense, suggests that the differences between Mi'kmaq and British interpretation of the treaties stems largely from the fact that, for the British, the text of the treaties themselves "would become the principle arbiter for understanding," where as Mi'kmaq interpretation of the treaties were formed "during the oral discussions that preceded the treaty's signing." Further, Wicken argues that, while Mi'kmaq did recognize the British Crown's claim to some lands in the Atlantic region, they did not recognize British authority over *Mi'kmaq* lands, resources and livelihood activities; these lands defined the Mi'kmaq way of life, and could never be "signed away" to an outside authority. Mi'kmaq, in their own historical accounts, claim that fishing, hunting and gathering were—and continue to be—cultural activities central to Mi'kmaq identity, economy and social cohesion, and they view the treaties as assurances of their rights to engage in these activities in perpetuity.⁶ A retired Mi'kmaq fisherman explained the cultural ties to natural resources to me, "If you're a Native, then you're a fisherman. You're a hunter. It's part of my heritage; it's part of my culture. It's one thing that's been done here for years and years and years—further back than I can count" (Interview with JA 7/05).

⁶ It is noteworthy that the Peace and Friendship treaties made by Mi'kmaq First Nations and the British Crown are distinct from the 19th century "numbered" treaties made between western First Nations and the Canadian government. Whereas Mi'kmaq-British treaties explicitly affirmed rights and relationships between nations, the 11 western treaties resulted in the cession and/or sale of First Nations' land to the Canadian government in exchange for money and smaller reservation lands (MARLCC 2000). It is precisely because Mi'kmaq peoples never ceded land or rights through treaties, that they have been able to build strong legal arguments for the continued validation of their rights to natural resources.

Wars between the French and British over control of northeastern North America, and the subsequent expansion of British colonial power in the region, resulted in the denial of treaties and the dispossession of land and other natural resources from Mi'kmaq peoples (Coates 2000). This dispossession was effected through both military conquest and state policies, and to a significant extent, the political, social and economic marginalization of First Nations people throughout Canada is evident in Mi'kmaq communities today. Though conflicts between Mi'kmaq and the Canadian government have been ongoing since the colonial era, contemporary struggles for treaty rights began to take shape during the civil rights movements of the 1960s and 1970s. During these decades and beyond, Native populations in North America, and around the world, engaged in activism and social movements demanding recognition of their inherent rights to land and other natural resources, and compensation for past transgressions, such as the cultural destruction and abuse suffered at residential schools throughout North America (Coates 2003, Hatch 1998, Josephy, Jr., et al 1999).

In Canada, conflicts over natural resources have increasingly involved state legal systems, and some First Nations groups in Canada have enjoyed significant successes in this venue (Coates 2003). The *Marshall* decision is one such instance. Five years after Marshall's arrest, the Supreme Court of Canada handed down a ruling upholding the right of Mi'kmaq peoples to gather natural resources in their traditional territories (in the present-day provinces of New Brunswick, Nova Scotia and Prince Edward Island, and the Gaspé region of Québec; see Figure 1).⁷ This

⁷ The Mi'kmaq of Newfoundland are not included as beneficiaries of the *Marshall* ruling because the government of Canada does not recognize them as original signatories of the 18th century Peace and

ruling was particularly significant, as its wording acknowledged Mi'kmaq people's rights to pursue "a moderate livelihood" through the sale of these resources, a phrase which has been interpreted by some Mi'kmaq fishermen and their allies as a right to self-governed commercial fisheries (R. v. Marshall 1999; Coates 2000).⁸

By affirming Mi'kmaq treaty rights, the *Marshall* decision significantly altered the conditions under which Mi'kmaq fishermen could participate in the commercial fisheries, and reshaped their engagements with the Canadian state in conservation and resource management matters.⁹ Shortly after the *Marshall* decision was issued, federal and provincial governments attempted to enter into resource management negotiations with Mi'kmaq leaders in order to clarify and structure emerging Mi'kmaq commercial fisheries—particularly the profitable lobster and snow crab fisheries. By the summer of 2005, all of the 34 Mi'kmaq bands recognized as beneficiaries of the *Marshall* decision had entered into good faith agreements with DFO. These short-term agreements (most lasting five years), called Interim Fisheries Agreements (IFAs), designated the number of licenses and fishing quotas available to each community (CBC News 2004a). The Canadian government, in turn, distributed money to each community Band Council (local government) for the

Friendship Treaties. Mi'kmaq leaders throughout the other Maritime provinces continue to fight for the treaty rights of Newfoundland Mi'kmaq (St. George's Bay Mi'kmaq 2002, CBC News 2000c).

⁸ Though a victory for the Mi'kmaq, the *Marshall* decision still left the burden of proof on First Nations. They were forced to provide evidence to a Canadian court that they still have rights to access and use resources on territories they never ceded or sold to the Canadian state.

⁹ In 1969, commercial fishing regulations were instituted, limiting the number of fishermen allowed to participate in each fishery (e.g., the lobster fishery, snow crab fishery, and the eel fishery), and also required the purchase of expensive commercial licenses for boats (before 1969, individual fishermen were licensed, not boats) (Caddy 2001). The cost of these licenses was prohibitive for most Mi'kmaq communities. Today, for example, a commercial lobster license for one boat is worth between \$200,000 and \$300,000 Canadian dollars (approximately USD \$165,000-\$250,000) (CBC News 2005a).

purchase of boats, gear, and to run training programs to prepare Mi'kmaq fishermen—many of whom had been out of the industry for decades—to return to the water.¹⁰ Mi'kmaq communities and DFO anticipate the expiration of the initial post-*Marshall* IFAs, and recognize the need for longer-term agreements about Native commercial fisheries regulation and management. Negotiations on these matters are ongoing today, and in many instances, are fraught with discord, especially in light of conservation concerns about over-harvesting (Coates 2000). In this paper, I argue that the friction characterizing many fisheries negotiation processes can be linked to Mi'kmaq peoples' past experiences with imposed federal regulation of the fisheries, and that these histories continue to orient Mi'kmaq communities' relationships with DFO today.

Immediately after the *Marshall* decision was handed down, Mi'kmaq fishermen from a number of communities in the Maritime provinces began fishing for lobster outside of the DFO-sanctioned lobster season, escalating tensions and provoking violent clashes between Mi'kmaq, non-Native fishermen and DFO (Obomsawin 2002). Within days, the national spotlight was focused on one community. Residents of the Burnt Church First Nation in northeastern New Brunswick, who have long had particularly contentious relations with federal and provincial governments, clashed violently with DFO and police when the Native fishermen refused to pull their lobster traps from the water and cease fishing (Coates 2000, CBC 1999a). Video footage from these skirmishes at Burnt Church shows DFO boats

¹⁰ It should be noted that federal regulations established in the 1960s and 1970s did not explicitly bar Native fishermen from commercial fisheries, though claims of discrimination by DFO against Native peoples in matters of access to natural resources are not uncommon. Under the law, Mi'kmaq fishermen were subject to the same licensing regulations as non-Native fishermen. The cost of these licenses was often prohibitively expensive for Native fishermen, keeping them out of the commercial fishery.

ramming into small Burnt Church fishing dinghies, and many lobster traps owned by Burnt Church fishermen were cut and sunk or seized by DFO officials. The Northern Gulf of St. Lawrence fishing region where Burnt Church is located has a spring lobster fishery, with lobster fishing prohibited in the fall, which conservationists consider an important time for lobsters populations to recover (Caddy 2001). Non-Native fishermen were particularly upset by Burnt Church fishermen taking lobsters in the off-season; insisting that an unregulated Native fall fishery would drive the cost of lobsters down and deplete stocks for the next season (Coates 2000). Fishermen from Burnt Church, and their supporters, responded to these complaints citing the *Marshall* decision and maintaining that they had the right—and the necessary expertise—to regulate their local fisheries, as their ancestors had done before colonization (Coates 2000). After the *Marshall* decision was handed down, many Mi'kmaq people felt that, “we could do any kind of fishing that we want, because it was proven in court that we could” (Interview with TW 7/05). Mi'kmaq people from Burnt Church were especially resentful at “being asked to limit their treaty fisheries so that non-Natives [could] continue to enjoy almost 96 per cent of the value of fish stocks that Mi'kmaq believe they never surrendered” (Barsh 2002:30).¹¹

When I spoke with Mi'kmaq people about how the *Marshall* decision has changed local attitudes and approaches to fishing and to the state, the events at Burnt Church were often invoked (Interviews with MB and LN 6/04; HP 1/05; TW 6/05; and CW 7/05). These events have become a powerful symbol that Mi'kmaq people from

¹¹ There are ongoing debates about the actual impact of Native commercial fisheries on fish stocks, with estimates of the total share of Native fisheries ranging from 3-15% of the total fishery catch.

other communities continue to draw on today to orient their own involvement in and sentiments about ongoing struggles against the state. For instance, during an interview with Thomas Whitmann¹², a retired fisherman employed by Salt Harbour Community Fisheries, he pointed to a poster on the wall of office where we were talking. It depicted a DFO boat ramming a small Burnt Church boat. The message on the poster urged Mi'kmaq people to continue to stand up for their treaty rights just as the fishermen at Burnt Church had. Mr. Whitmann made it clear that DFO's actions at Burnt Church disgusted him. "But we're keeping them on their toes," he said, "we're trying to fight our way through." These confrontations have become a rallying point for Mi'kmaq people, assuming legendary status in many Mi'kmaq communities throughout Atlantic Canada. Like other people from Salt Harbour with whom I spoke, Mr. Whitmann identified the clashes at Burnt Church as his own, his community's, and as all Mi'kmaq communities' as they "fight their way" to fisheries access. The ferventness with which Burnt Church fishermen have defended their rights in the years after the *Marshall* decision is also indicative of Mi'kmaq people's visions for a future where Native fisheries are successfully self-regulated. As the most visible and one of the least willing communities to negotiate with DFO in the years following the *Marshall* decision, Burnt Church has become a touchstone of strength, resistance and unity for Mi'kmaq people throughout the region.¹³ Mr.

¹² Names of people I interviewed have been changed to protect their anonymity and that of their communities.

¹³ Burnt Church continues to be contentious ground for fisheries. In reaction to restrictions placed on the spring 2005 snow crab fishery by DFO, Burnt Church fishermen vowed to fish for lobsters in the fall to make up for lost snow crab revenue. The Burnt Church region, which includes non-Native fishing communities, has a spring lobster fishery, and the fall is considered a closed season. These Native fishermen claim that spring restrictions on snow crab violated the terms of their post-*Marshall* agreement with the Canadian government (CBC 2005c). A fall Native lobster fishery is a way for

Whitmann's son, Chip, also a fisherman, described the strong ties binding his community with Burnt Church and other Mi'kmaq communities: "Mi'kmaq have long, hard relations with each other...Like if anything goes down [goes wrong] down on that reserve, we're like next door neighbors...We have to help them. If we had any troubles, we'd call them up and they'd come down here, too" (Interview with CW 7/05). These skirmishes, and the regional ties to other communities that Burnt Church residents drew on, cannot be understood as isolated events; they have played out in dialogues with historical movements for First Nations rights, and have been converted into cultural and strategic resources that Mi'kmaq people from Burnt Church and other communities draw on today to organize and produce their own identities as Mi'kmaq fishermen and First Nations people.

Mi'kmaq Activism & Resistance

The *Marshall* decision, I propose, can be viewed as a culmination of years of persistent activism and advocacy by First Nations people in places like Burnt Church. The confrontations in that community are only one of the many sites of contention from which Mi'kmaq activists have demanded recognition of their treaty rights. Conflicts over access to fisheries have been ongoing in Atlantic Canada for decades, and have taken the form of protests, as well as court cases and negotiations with the Canadian government. Together, all of these experiences have formed the sociocultural/political/historical context within which local practices, meanings and identities are formed today.

Burnt Church fishermen to make up for lost revenue, as well as reasserting their right to fish commercially.

Generations of Mi'kmaq fishermen have been involved in struggles for treaty rights, and, it can be argued, these experiences with long-term conflicts have been continuously transformed and taken on new meanings over the years, affecting local experiences with activism and fisheries. As Mi'kmaq people have worked for recognition of their treaty rights, the conditions under which they have engaged in and experienced these long-term conflicts have changed; however, the general struggle for access to natural resources has persisted. Some of the changes, I assert, arise from personal experiences, events, and practices carried out locally and re-told over generations and geographic distance until some Native peoples have "taken up" these struggles as their own. For instance, a young fisherman related to me his sense of past conflicts over Mi'kmaq fisheries:

"For a thousand years, they [non-Natives] have been chasing us out of the water. My grandfather has been telling me that one of his brothers was out setting nets and they [Canadian government officials] put him in jail. It was just because of who he was and what he could do. He went to gather his food and they wouldn't let him. We learned a lot from way back" (Interview with CW 7/05).

During interviews I conducted from summer 2004 to summer 2005, a number of Mi'kmaq people from different communities related their long-term engagement with treaty rights, and it was apparent that these past experiences have made lasting impressions.

When Henry Prentice was a young boy living on the Salt Harbour Mi'kmaq reserve in the 1960s, he went with his fisherman father to support a "protest fishery" orchestrated by another Salt Harbour fisherman in defiance of federal fishing regulations prohibiting First Nations peoples from fishing salmon with traditional nets. The fishermen involved in this protest maintained that treaties their ancestors

had made with the British were still valid, and that they had a right to fish when and how they chose. (This protest fishery was a subsistence fishery, not for commercial purposes.) This experience impressed upon Mr. Prentice the cultural importance of fishing for Mi'kmaq people, as well as the injustice Mi'kmaq fishermen experienced at the hands of the Canadian government (Interview with HP 01/05). As a young fisherman, Mr. Prentice experienced this frustration and discrimination first-hand. A direct descendant of one of the Mi'kmaq leaders who signed treaties with the British, Mr. Prentice expressed pride in his ancestors and his belief in enduring Mi'kmaq rights to land, resources and culture. In the early 1990s, convinced that treaties guaranteed Mi'kmaq fishermen the right to fish commercially, Mr. Prentice and several friends approached their Band Council and were given permission to conduct a commercial protest fishery. Although short-lived, this protest fishery “shook everybody up” and Salt Harbour began talking with DFO about how Mi'kmaq fishermen could play a role in commercial fisheries in the region (Interview with HP 1/05). Certainly, his past experiences with protest fisheries and stories of Mi'kmaq treaties and culture informed Mr. Prentice's activist position and activities as an adult. Today, he is a director at Salt Harbour Community Fisheries (SHCF), and continues to work for community development through commercial fisheries. He describes his vision for Mi'kmaq commercial fisheries as a “holistic” one; for him, the *Marshall* decision has provided opportunities for Mi'kmaq fishermen to employ their treaty rights to fish and reinvest profits into community programs and infrastructure—using culturally-defined rights to resources to strengthen community life and culture.

Like Mr. Prentice, Marianne Barber, an analyst at a First Nations policy group in Nova Scotia, proudly recalled her grandfather organizing a protest fishery in the Richibucto River in the 1970s. She explained that her family was having economic difficulties and her grandfather needed to fish in order to feed them. At the time, however, federal regulations prohibited subsistence salmon fishing. One day her grandfather, along with several friends, waded into the river and dropped their salmon nets in defiance of government regulations. Ms. Barber laughed as she told me that it was actually too late in the season to catch salmon, so one of the men took a frozen salmon from his home, submerged it in the river, and then held his “catch” up for the authorities and media to see! Several people I interview in Salt Harbour also recalled this incident and related it to recent disagreements with DFO over regulation of subsistence and commercial fisheries.

Jean Francis, a Mi’kmaq cultural educator working in a northern Maine Mi’kmaq community related stories of his participation in “illegal fisheries” in a Québec Mi’kmaq community in the 1970s (Interview with JF 6/04.) Just as in Salt Harbour, subsistence fishing was vital to Mr. Francis and other members of his community. For a decade, they fought with the federal government and with the province of Québec over access to subsistence fishing. The province refused to recognize Mi’kmaq rights to resources, while the Mi’kmaq maintained that their treaty relationships were nation-to-nation agreements with the federal government, and had nothing to do with the provincial government. In addition to resistance from the Canadian government, local non-Native fisherman also protested that Mi’kmaq should not be allowed to use “modern” equipment to conduct their traditional

fisheries, since such equipment was not available at the time treaties were made.¹⁴ In order to successfully assert their rights, activism and education within the community was necessary, Mr. Francis told me. Inspired by “people’s rights” movements of the 1960s when “things were happening; things were changing,” Mr. Francis believed that the protest campaigns in his community would raise people’s awareness of Mi’kmaq rights, and “strengthen [their] identities” (Interview with JF 6/04).

Experiences like those of Mr. Prentice, Ms. Barber and Mr. Francis with protest fisheries are not uncommon in Atlantic Canada over the past half-century. An archival search of local newspapers from this period turned up articles with titles such as “Indians Place Nets Despite Salmon Ban” (Daily Gleaner 1971), “Kingsclear Reserve Indians Will Continue to Net Salmon (Daily Gleaner 1977a), and “Indians Plan Force to Keep Fishing Nets” (Daily Gleaner 1977c). These 1970s headlines depicting Mi’kmaq activism for fishing rights do not differ substantially from headlines that appeared shortly after the *Marshall* trial. For instance, the following headlines ran on local and national newswires in 1999 and 2000: “Native Fishermen in Burnt Church vow to defy moratorium” (CBC News 1999b); and “Ottawa cracks down on Native fishing in N.B.” (CBC News 2000a).¹⁵ The similarities in these headlines speak to the continuity of Mi’kmaq treaty struggles over the past several decades.

¹⁴ Similar arguments against the persistence of aboriginal fisheries have been made by non-natives, who claim that such a fishery is only “traditional” if fishers use pre-contact methods to capture fish (see for example McLean 1999).

¹⁵ In 2000, Burnt Church First Nation had not signed an Interim Fisheries Agreement with DFO, arguing that the *Marshall* decision validated their rights to self-governed commercial fisheries. The federal government rejected this stance, and DFO boats frequently “cracked down” on Burnt Church fishermen by confiscating their traps and boats.

In the 1970s, 80s and 90s, as conflicts over Native resource use were being constructed and experienced locally in Mi'kmaq communities, First Nations people throughout Canada began to win precedent-setting legal victories upholding their aboriginal and treaty rights.¹⁶ As a result of these victories, more Native peoples began to turn to the courts for legal validation of treaties (Coates 2000). Three rulings, in particular, helped to shape the *Marshall* case, and influenced the shape of local fisheries conflicts more generally. Much has been written about these decisions by legal scholars, historians, economists, Native scholars and social scientists (see for example, Coates 2000; Culhane 1998; Asch 1991). The following is a short description of three of these rulings and their significance to Mi'kmaq treaty activism.

In the 1973 *Calder* case, the Nisga'a First Nation in British Columbia argued for ownership of their traditional lands (comprised of a large tract of the present-day province of British Columbia.) Though the Nisga'a lost their case by the vote of one Supreme Court justice, the ruling acknowledged First Nations' presence on and valid governance of lands prior to the arrival of European settlers (Coates 2000).¹⁷ This ruling laid the groundwork for many treaty claims cases over the next decades, such as the 1990 *Sparrow* decision, which established that aboriginal rights may be regulated by the federal government in counsel with First Nations, but that they are never extinguished (Coates 2000). This point was also central to the *Marshall* case.

¹⁶ Treaty rights differ significantly from aboriginal rights. According to Wicken (2002:6), treaty rights are based on "the words used in an agreement between an aboriginal community and a European government", whereas an aboriginal right "stems from the fact that aboriginal people were the first inhabitants of North America." The *Marshall* decision was based on a claim to a treaty right.

¹⁷ In 1998, the Nisga'a entered into the first "modern" treaty in British Columbia, when they settled their land claim with the government for 2000 square kilometers of land in northwestern British Columbia. In return, the Nisga'a agreed to give up their tax-exempt status, and to make no further claims against the provincial or federal governments (CBC News 1998).

A third key court decision which contributed to the reshaping of the social and political landscape of Mi'kmaq identity construction was the 1998 *Thomas Peter Paul* ruling, which upheld New Brunswick Mi'kmaq treaty rights to harvest timber for commercial purposes.¹⁸ Argued concurrently with the *Marshall* case, the *Thomas Peter Paul* victory resulted in Mi'kmaq people exercising their commercial logging rights in the forests of New Brunswick (though a provincial court in neighboring Nova Scotia ruled against Native rights to commercial logging) , and was followed shortly by Mi'kmaq fishermen participating—many for the first time—in commercial fisheries (Coates 2000). Together, these three cases reflect decades of Native activism, and have provided Native people today with resources to draw on as they continue their struggles for treaty rights.

Fallout from the *Marshall* decision continues to be felt in tense relations between Mi'kmaq communities, their non-Native neighbors and the federal government today. During the summer of 2005, both Mi'kmaq and non-Native fishermen protested the early closure of snow crab fishing areas by DFO. Mi'kmaq fishermen claimed that these closures violated both Mi'kmaq treaty rights to fish, as well as negotiated agreements with DFO following the *Marshall* decision (CBC News 2005c). Mr. Whitmann expressed his irritation with DFO over fisheries negotiations: “The government says, ‘I’ve given you this and I’ve given you that. You should be satisfied.’ We ain’t going to give it up [rights to fisheries]. We ain’t going to throw it away. It’s ours, and that’s been proven in court by *Marshall*” (Interview

¹⁸ The *Thomas Peter Paul* ruling was overturned by the Supreme Court of Canada in July 2005. While the New Brunswick provincial courts had validated Mi'kmaq treaty rights to cut timber on Crown lands (government-held lands), a Nova Scotia court ruled this illegal in that province. The 2005 Supreme Court ruling echoed the previous Nova Scotia ruling, claiming that the Mi'kmaq loggers' lawyers had not proven that commercial logging was an activity that was enshrined in treaty rights (Shallot 2005; Maher 2005; Chiarelli 2005).

with TW 7/05). In response to snow crab closures, several Mi'kmaq communities threatened to extend (or enact, in regions with a spring lobster season,) the fall lobster fishing season in order to recoup lost revenue from a shortened snow crab season (CBC News 2005c). Newswire headlines from this period, such as "Native fishermen issue ultimatum" (CBC News 2005b) and "Native fishermen plan fall lobster season" (CBC News 2005c) echo earlier headlines about Mi'kmaq resolve and continued activism.

Recent skirmishes over the fisheries have also affected Mi'kmaq activism and cultural identity negotiations in the post-*Marshall* era. Events like the burning of Native fishing boats in Shippagan, and the clashes between DFO and Burnt Church fishermen, described above, have been memorialized in the collective consciousness of those struggling for Mi'kmaq treaty rights, regardless of the specific local circumstances in each of the Mi'kmaq communities affected by the *Marshall* ruling. These events are invoked by people to describe or explain the meanings of the struggles, as well as to situate personal and collective identities within the larger conflict itself. Mr. Whitmann's invocation of the Burnt Church poster to describe his feelings about present-day relations between Mi'kmaq people and the federal government is an example of how a past event continues to be drawn on by local people to construct the conflict and their place in it. Participation in Native rights activism and important court rulings upholding First Nations treaties have not only changed the legal and political terms of the ongoing conflicts, but they have also inspired new engagements in local struggles, as well. By considering these complex and often contentious interrelations between local and large-scale conflicts from a social practice theory perspective, new insights can be gained about the ways in

which Mi'kmaq fishermen are relating to fisheries resources, to their communities, and to the conflict itself.

CHAPTER III

SOCIAL PRACTICE THEORY

Mi'kmaq efforts to achieve treaty rights constitute a long-term situation of contestation, which Holland and Lave (2001) refer to as “enduring struggles.” Through these struggles, connected as they are to local contentious practice, both collective and personal identities are produced and reproduced. Thus, such identities have been informed by the experiences of previous generations, as well as by the activism of Native peoples in Canada and—through interconnections of people and flows of media representation—peoples around the world, who have fought to have their rights to land, resources and autonomy recognized and respected. Through these complicated and sometimes contradictory processes, individuals organize their personal and collective identities by situating themselves in relation to historical, enduring dialogues, and to their perceptions of others involved in the struggle (Satterfield 2002; Holland and Lave 2001).

In the six years since the *Marshall* decision was written, there have been changes in the ways that Mi'kmaq people position themselves in relation to the fisheries. As discussed above, this court decision altered the terms of community and individual participation in the fisheries, ushering commercial fisheries into communities where, in many cases, small-scale subsistence fishing was the only type of fishing being practiced (APC 2005; Interview HP 1/05). Similarly, the ways in which individual

fishermen are relating to the fisheries is also changing. For instance, several people I interviewed claimed that Mi'kmaq fishermen should be communally-minded in their fisheries practices, while others—particularly younger fishermen—asserted their rights and intentions to fish for individual profit. These two sentiments were not always mutually exclusive, and will be explored in greater detail below. Varied interpretations of the political economy of fishing and what it means to *be a fisherman* today are not simply reactions to a single court ruling; they are the products of years of complex, dialogic interactions with the state, the market, and with natural resources, as well as with Mi'kmaq visions for the future of community and culture.

Social practice theory provides a particularly useful framework for considering the complicated ways that identities form through conflict by focusing on the complicated relationships between large-scale, enduring struggles, and their historically-embedded, locally experienced manifestations. Such an approach illuminates the mutually constitutive, fluid ways in which collective and personal identities are formulated. Other approaches to identity formation during conflicts—namely identity politics—have primarily focused on the politicization of identities in the context of human rights discourses based on modernist premises of individual universalism, rather than on historically embedded, locally-rooted collective identities. Through such discourses, identities are disembedded from local knowledge, practices, and their definition and recognition become dependent on modernist frameworks of meaning (Brown 1995; A. Hornborg 1994). Further, Brown (1995) argues that, by engaging in “rights” discourses, identity politics constructs certain identities (e.g., women and indigenous peoples) as victims,

naturalizing dominant discourses and ideologies. In this sense, identity politicking virtually ignores the local and large-scale conditions creating socio-economic inequalities, viewing identity claims as individual, strategic, rights-based claims aimed at achieving certain political goals. While I agree that identity processes are unquestionably linked to politics and strategy, they also exist within complicated power structures, and constantly shifting social fields. As these fields—and the opportunities and resource available within them—shift so do the terms under which identities are negotiated. Social practice theory provides insights into the role of power, cultural production, and the multi-scalar qualities of conflicts in structuring identity formation.

In the introduction to their edited volume, Holland and Lave (2001:17) depict identities as formed through locally specific, enduring struggles within broader contexts of “historically institutionalized struggles.” These long-term conflicts are contentious, they argue, and are “appropriated and lived in practice” (2001:22). Though influenced by specific cultural historical relationships, as well as entrenched power structures, enduring struggles are constantly transformed through practice. According to Holland and Lave, “the notion of long-term struggles offers a view of structure as process, as a matter of relations in tension” (2001:23). This practice theory view of identity formation where identities—both collective and personal—are constantly reworked in relation to historical, ongoing conflicts as well as unique local experiences of the conflict is useful in contemplating how Mi’kmaq fisherman identities are being actively renegotiated in a time and place where recent changes in the opportunities and resources available to fishermen are affecting the dialogues and practices through which identities are constructed.

It is through particular experiences, which occur during the course of enduring struggles, that individuals develop sentiments and ideas about their own relationships to the conflict (Holland, et al. 1998.) The Mi'kmaq people I interviewed situated their experiences and sentiments within processes of treaty struggles and negotiations by drawing on past events (e.g., protest fisheries from the 1960s through the 1990s, and conflicts at Burnt Church in 1999 and 2000.) According to Warren (2001:64), whose work has dealt with the changing nature of indigenous activism over generations, "Identity, in this account, becomes a shifting composite, complexly influenced by individual protagonists, the...discourses they appropriate, and the shifting arenas of their activism." These enduring struggles are, of course, actively constructed and experienced socially. Through ongoing dialogues with oneself and others, individuals develop and locate themselves within particular social fields which reflect their particular relationship to conflicts.

Through the complicated and often contradictory dialogues formed during the course of conflicts, identities are negotiated as people come to define who and what they are—and who and what they are not. Actors involved in conflicts engage in numerous dialogues—both internal and external—with the past (real and imagined), with entrenched political structures (e.g., those of gender and ethnicity), with themselves and with others who share their struggles, as well as with those against whom they are struggling (Holquist 2002; Bakhtin 1981; Satterfield 2002; Holland and Lave 2001; A.C. Hornborg 2001). Such dialogues help to shape not only collective identities, but individual subjectivities; through them, individuals situate themselves (and others) in the context of enduring local and broader struggles. One such dialogically constructed site is described by Satterfield (2002) in her

ethnography of the conflict between environmentalists and loggers over the fate of old-growth forests in the Pacific Northwest. She takes a dialogic approach to elucidating how activists on different sides of the issue employ competing discourses to construct their identities—and the conflict itself—dialogically, and to validate their own positions in the dispute.

Likewise, a dialogic approach is useful for considering the processes through which Mi'kmaq fisherman identities are being refigured in the post-*Marshall* era. Fishermen, I contend, are engaging in dialogues with the Canadian state, with their own communities, with transnational fisheries markets, and with the treaties themselves as they work to situate themselves in relation to fisheries today. One particularly significant dialogic process that is occurring today in the Mi'kmaq community of Salt Harbour where I conducted research is between factions of the community that favor communally-oriented versus individually-oriented commercial fishing practices. The rhetoric and sentiments guiding long-term treaty conflicts have focused on fish and fishing as essential components of Mi'kmaq collective cultural life. However, the *Marshall* case—itsself informed by these ideas—has created opportunities for Salt Harbour fishermen to participate in commercial fisheries as individuals, and many are doing so for the first time. Though the *Marshall* decision upheld Mi'kmaq collective rights to fisheries, it also created an arena where new, individually-based fishing practices and fisherman identities are being produced.

There may appear to be an inherent contradiction between long-term treaty struggles based on collective rights and culture, and current trends toward individual rights, but such contradictions are not uncommon as Mi'kmaq people continue to

work to situate themselves in complex and shifting social fields. Further, the knowledge work informing these practices should not be construed as simply modernist versus traditional; though I use the labels communal and individualistic to describe fishing practices and identities, the distinctions are not that simple. People in the community described different approaches to the fisheries terms of individualism and community-mindedness; however, the practices and identities emerging are hybrid, with both communally- and individualistically-focused fisherman shaping and being shaped by historically-embedded conflicts, as well as by newly emerging practices and sentiments. It is possible that these two orientations will cease to be salient identities in Salt Harbour as the post-*Marshall* era proceeds. This decision is transforming the social conditions surrounding the fisheries in Atlantic Canada, and in the process, has created a new and contentious space for negotiating what it means to be a fisherman.¹⁹

New Spaces for Negotiating Identities

In her ethnography of women's involvement in republican nationalist struggles in Northern Ireland in the 1980s, Aretxaga (1997) uses the concept of *slippages* to describe the emergent social and political arenas in which women were able to renegotiate their identities as wives and mothers during the conflict. In these new spaces of identity construction, women recreated themselves as active participants in

¹⁹ To be sure, there are many ways to approach this situation, and many aspects of Mi'kmaq fisheries and treaty conflicts not addressed in this paper. For instance, I do not examine how the contentious relationships between Mi'kmaq fishermen and their non-Native neighbors have affected collective and personal identity processes in the post-*Marshall* era. Neither have I touched on the gendered aspects of treaty conflicts, nor the changing relations between Mi'kmaq First Nations and the Canadian state. All of these issues have undoubtedly shaped how Mi'kmaq people relate to the fisheries today. I plan to continue exploring post-*Marshall* Mi'kmaq fisheries and communities in my dissertation research, and will hopefully be able to address some of these other important issues at that time.

the struggle—as heads of household, resistors, and even arms smugglers—rather than as simply symbols of the conflict used by men to construct the terms of the struggle (i.e., fighting for Mother Ireland). The conflict itself created openings in the everyday social fabric where women were able to engage in new ways with the Irish nationalist project, and at the same time, renegotiate their gender identities.

Slippages, as Aretxaga understands them, are new spaces, or circumstances, created through conflict, where those involved are afforded new or unusual opportunities to reconfigure their identities and practices.

The concept of slippages as emerging spaces created through engagement in conflicts is an apt characterization of the new social and political circumstances in which Mi'kmaq fisherman identities are being negotiated in Atlantic Canada. The *Marshall* decision, especially, has created a dramatic slippage in the fabric of Atlantic Canadian fisheries, and First Nations-state relations. Not only has a new space for renegotiating relationships to the fisheries been created, but what's more, the ruling itself is a slippage (so far) sanctioned by a state which has, for centuries, systematically worked to abolish First Nations' treaty rights. Further, the new openings created by this slippage are allowing new social and political dialogues and identity processes to take place in Mi'kmaq communities.

Lest the metaphor of slippages give the impression that social fabrics are stable, and only minimally vulnerable to tears or slips, I suggest, following Sahlins (1985), and Bourdieu (1977), that though social institutions are often entrenched in local and national power structures, they are also constantly reproduced, with new variations of knowledge and practice subsumed into the structure, altering it. Perhaps it is more precise, therefore, to consider slippages as dramatic changes taking place

within complex, constantly shifting social fabrics—fabrics that have been stretched and torn through ongoing conflicts, such as Mi'kmaq treaty struggles, and are constantly in the process of being patched together again in different patterns using the new resources produced through the conflicts.

I propose that Mi'kmaq treaty struggles can be viewed as processes of cultural production where identities and relationships to natural resources and to the state are recast. These reformulated fisherman identities also participate in dialectical relationships with ongoing reformations of collective cultural identities. The new opportunities and resources that have followed from the *Marshall* decision have allowed individuals to rethink and recreate (to *reproduce*) themselves and their relations to the fisheries. However, they have also given rise to new and complicated conflicts and contradictions about what it means to be a Mi'kmaq fisherman, in a collective, cultural sense. It is through this conflict over treaty rights—and associated contested dialogues—that new identities and practices related to the fisheries are emerging in Mi'kmaq communities today.

CHAPTER IV

MI'KMAQ FISHERIES TODAY

A social practice theory approach to identity allows for a richer understanding of the highly contextual construction of self and other through conflict. After decades of exclusion from the commercial fisheries by what many describe as the discriminatory policies of the federal government, large numbers of Mi'kmaq fishermen are now entering the industry. Commercial fisheries operations in Mi'kmaq communities today vary substantially from community to community, with some communities, such as Salt Harbour in New Brunswick and Membertou in Nova Scotia, achieving significant successes, while others still struggle to gain a foothold in the industry (APC 2005). Likewise, the structure and administration of Mi'kmaq fisheries operations and management schemes varies between communities. Some communities have formed independent corporations to manage fisheries, while others rely on Band Councils and community-based fisheries divisions to administrate licensing and equipment (APC 2005). Additionally, after the *Marshall* decision, each Mi'kmaq community negotiated a separate commercial fisheries agreement with the federal government, the terms of which are having unique effects on each community. For instance, Salt Harbour leaders have become interested in developing commercial snow crab and lobster fisheries, and so their agreement included federal money for boats, gear and training programs. Whereas, another

community decided to focus on aquaculture rather than on free-range commercial fisheries; their agreement included start-up capital for this venture. These locally-specific approaches to fisheries indicate that the effects of the *Marshall* decision on Mi'kmaq communities must be considered on a case-by-case basis.

Mi'kmaq identities continue to be at stake in the post-*Marshall* years, but the ways in which they are figured and practiced have changed. Pre-dissertation research I conducted in 2004 and 2005 indicated that the *Marshall* decision has signaled a reordering of the ways that people think about themselves as resource users. For Mi'kmaq peoples in many Maritime communities, fishing has become a commercial pursuit, and emphasis is moving away from the cultural significance of small-scale fishing. Mi'kmaq identities continue to be formed through conflict, particularly in relation to historic and ongoing conflicts with the federal government (Interviews with HP 1/05; MA 8/05; JA 7/05; TW 7/05; CW 7/05). However, unlike in the pre-*Marshall* era where the main conflicts through which fisherman identities were produced were between Mi'kmaq and the state, fishermen today are developing ways of *being fishermen* that are contested within their own communities and in Mi'kmaq cultural terms. The shape of the conflict has changed. Some Mi'kmaq fishermen view the *Marshall* decision as sanctioning their participation in the industry as individuals where they can sell their catch to processors and distributors of their choice and keep most of the profits (even while they fish with communal licenses distributed by Band Councils).²⁰ Others have called for participation in the commercial fisheries in more communally-minded ways, encouraging commercial

²⁰ The Salt Harbour Band owns the majority of commercial fishing boats used by community residents. The Band collects 12% of the catch profits from each boat to pay for insurance, and captains divide the rest as they see fit.

fishermen to reinvest a larger portion of their profits into local social programs and infrastructural projects (APC 2005; Interviews with HP 1/05, CW 7/05, TM 6/05 & 7/05; and MA 8/05). In short, the opportunities and resources available to Mi'kmaq fishermen since the *Marshall* decision have allowed them to engage with the resource under new conditions; there are now opportunities for both community-minded and individualistic participation in fisheries, and subsequently, the refigured practices of these fishermen are altering the meaning of fishing as a traditional activity in Mi'kmaq communities.

While personal and collective fisherman identities are being forged through practice at local levels, they are also situated within larger frameworks of power and economy. Contentious practices at the local level are, in many ways, shaped by those taking place at larger levels, and vice versa (Holland and Lave 2001). Further, the personal and collective identities being reworked in these new contexts, though related, are not necessarily the same. As Mi'kmaq communities work collectively to define the meanings and practices involved in commercial fisheries, individuals within communities are also relating to the fisheries on personal levels, developing fisherman identities of their own. These personal identities may have many similarities to collective identities; however, they may also be quite different, resulting in conflict within the community. The Mi'kmaq community of Salt Harbour, New Brunswick, is one such community where collective and personal fisherman identities are being figured through processes that are often contentious and always changing.

Salt Harbour

I began fieldwork in Salt Harbour during the summer of 2004, establishing contacts with local fishermen, visiting the community, and speaking with a number of community members involved in the fisheries, as well as two Mi'kmaq treaty analysts from the community who are now based in Nova Scotia.²¹ Through this research, I hoped to gain an understanding of how the *Marshall* decision is being experienced locally in a Mi'kmaq community with a long history of involvement in the fisheries and in treaty rights activism. Although my ethnographic research is in the preliminary stages, when considered along with other data gathered from various media sources, from books and journal articles on related topics, and from a January 2005 regional Mi'kmaq fisheries conference that I attended, a picture of the changing relationships between people and fisheries in the Mi'kmaq community begins to emerge.

The Mi'kmaq community of Salt Harbour is one of the largest First Nations reserves in Atlantic Canada, with over 2,500 residents. Stretching over 4,000 acres, the community is sheltered in a river cove close to the Southern Gulf of St. Lawrence. Salt Harbour and the land around it was established as a First Nations reservation territory by the Canadian federal government in the early years of the 19th century, and its residents, once seasonally nomadic fishermen, trappers, hunters and gatherers, became a sedentary population. Though residents of this growing community have experienced hardships as a result of the federal fisheries regulations

²¹ Several organizations in Atlantic Canada have developed for the exclusive purpose of representing the interests of First Nations' bands in the region. Legal support and education programs are often a major component of these organizations' work. The treaty analysts I met travel to Mi'kmaq communities in Nova Scotia, New Brunswick and Prince Edward Island to educate local people about their treaty rights and offer advice about the how communities can pursue treaty claims.

and state policies, fishing has remained an important component of community. It has provided nutritional subsistence, and served traditional and ceremonial purposes, such as religious gatherings and feasts. Jack Albert, former director of the food and ceremonial fisheries program in Salt Harbour explained the continued significance of fishing for his community:

Traditionally, we have always fished. It has always been a part of our diet. If salmon are running, we have to get salmon...In eel season, we get eels. You get as much fish as you can so that you can store it—traditionally, that is. Nowadays, people still eat those traditional foods at powwows and gatherings. At gatherings, the old people, they like to have a little bit of salmon, maybe some lobster. It's nice to be able to bring it out as a traditional meal...it's part of our culture. We've always had this (Interview with JA 7/05).

Conflicts between DFO and Salt Harbour fishermen are longstanding. For decades before Donald Marshall Jr.'s arrest and trial, Salt Harbour fishermen clashed with DFO over the right to access and regulate the community's important food and ceremonial fisheries, a right that Mi'kmaq believe is enshrined in treaties. This ongoing battle was described to me by Thomas Whitmann, a retired fisherman and self-described traditionalist, as one where both cultural and treaty rights are at stake.: "Our tradition lies between our culture and our food chain...The government has drawn a line where it doesn't give us that fish that we're supposed to be eating" (Interview with TW 7/05). Several other Mi'kmaq people I interviewed argued that, despite an earlier court decision – known as the *Sparrow* ruling of 1990 – recognizing Mi'kmaq rights to fish, hunt and gather for food and ceremonial purposes, the federal government continues to limit and over-regulate Native food and ceremonial fisheries. According to Chip Whitmann, a young fisherman from Salt

Harbour, “They [DFO] think that they own everything. Even though [Supreme Court decisions] said that we can use it [fish] for food and for ceremonial” (Interview with CW 7/05). His frustration during this interview stemmed in large part from a June 2005 incident where he was stopped at the local wharf by DFO and subsequently arrested for attempting to distribute snow crab to family members for consumption. (DFO does not recognize snow crab as part of Mi’kmaq food and ceremonial fisheries.) Continued disagreements with the federal government over food and ceremonial fisheries are leading some Salt Harbour to be wary of the federal government’s intention to honor the commercial fishing right conferred in the *Marshall* decision.

In the mid-1990s, fisheries directors from Salt Harbour began meeting with DFO officials to discuss the possibility of federally-supported commercial fisheries in the community (Interview with HP 1/05). These preliminary negotiations took place before the *Marshall* decision, and after the decision was written, fisheries negotiations for a short-term agreement began in earnest. In the meantime, Salt Harbour Community Fisheries employees had been gathering information on fish stocks, fishing practices and conservation, and subsequently, they developed a management plan specific to their own community’s needs and values (Interview with JA 7/05). DFO was surprised by the thoroughness of this plan, and Jack Albert told me, “The government wasn’t ready for us. We walked in there [to post-*Marshall* negotiations] like we knew what we wanted...our eyes were open” (Interview with JA 7/05).

This management plan, which came from within the community, empowered Mi'kmaq negotiators in their dealings with the government.

In the year following the *Marshall* decision, fisheries officials and community leaders from Salt Harbour came to an Interim Fisheries Agreement (IFA) with the Canadian federal government, setting limits on the quota attached to the Band's communally-held licenses.²² Distribution of commercial licenses to individual fisherman became the responsibility of the Band Council. In exchange for Salt Harbour's agreement to regulate their commercial fisheries through the IFA, DFO provided the Band money for boats, gear and training during the term of the agreement (Interviews with TM 6/05; JA 7/05; and MA 8/05). Participants in a recent fisheries conference I attended, which included representatives from Mi'kmaq First Nations and the federal government, expressed worry about the impending expiration of the interim agreements in a number of communities. Few communities have solid, long-term plans in place, including Salt Harbour.²³ Jack Albert, who helped to negotiate the first Salt Harbour IFA in 2000 worries that, "once the IFA runs out [in 2006], there might not be more money coming in from the government...There's going to be a lot of problems at that point. I can see a lot of boats going up for sale" (Interview with JA 7/05). He lamented that the community had not done more over the past five years to ensure that that commercial fisheries could be self-sustaining after the initial IFA. Through conversations with Salt

²² The IFA established commercial fishing guidelines for Mi'kmaq communities. Food and ceremonial fisheries are regulated by a different agreement—the Aboriginal Fisheries Strategy (AFS.) Fish caught under the AFS are for consumption and use by community members only, and may not be sold.

²³ By the summer of 2005, negotiations for a new fisheries agreement between DFO and the Salt Harbour band were underway.

Harbour Community Fisheries employees, it became clear to me that that these worries had to do, in part, with continuing disputes between the Band and DFO over interpretations and limitations of treaty rights.

Though Salt Harbour's negotiations with DFO have been mostly amicable, SHCF employees acknowledged that there is still much work to be done to achieve a successful, mutually agreeable fisheries management plan in Salt Harbour (Interviews with MB & LN 6/04; HP 1/05; TW 7/05; JA 7/05; and MA 8/05). They expressed frustration over continued disjunctures between Mi'kmaq people and DFO in interpretation of treaty rights. "Everyone has a different story" about the rights conferred by the *Marshall* decision, Mr. Prentice told me. Spokespersons from the Canadian federal government and the mainstream media have often portrayed Native people who assert their treaty rights as "radicals or activists," publishing pictures of First Nations people in camouflage gear blockading roads to protest fisheries restrictions. Mr. Prentice sounded exasperated as he told me that, though the state (then the British Crown) was involved in writing the treaties, Canadian officials today often do not recognize the rights they confer to Mi'kmaq people. Some of the elders from Salt Harbour have urged younger Mi'kmaq negotiators to be cautious in their dealings with the Canadian government. "The elders talk about this [misinterpretations of treaties]. They say, 'Don't sign anything; don't ever sign anything.' Because once you sign it, then the government takes it" (Interview with TW 7/05). These feelings of mistrust persist today, and are a barrier to long-lasting, effective co-management planning.

Despite persistent disagreements, Mi'kmaq fisheries officials from many of the Mi'kmaq communities in Atlantic Canada are convinced of the value of working with

the Canadian government and with organizations representing non-Native fishermen to come to agreements over fisheries use and management (APC 2005). Shortly after the *Marshall* decision, Salt Harbour fishermen were eager to return to the water, however, many lacked experience with commercial vessels (though some had worked as support crew on non-Native commercial vessels.) Jack Albert, who was involved in developing the mentorship program, told me, “My goal was initially, to train as many Native people as mentors [as I could] so that a Native person would learn from a Native person. But I couldn’t do that until I had the Natives trained to be [commercial fishermen] first” (Interview with JA 7/05). Salt Harbour Community Fisheries approached the Northumberland Fishermen’s Association, a local organization representing non-Native commercial fishermen in the region, and the two groups worked together to develop a mentorship program, where experienced non-Native fishermen—many of whom were no longer fishing because DFO bought back their licenses in order to make room in the fishery for Native fishermen—taught Mi’kmaq fishermen about different aspects of commercial fishing (Interviews with HP 1/05; JA 7/05). Overall, the mentorship program has been a success. The 2005 snow crab fishery was the first season that Native captains and crews from Salt Harbour fished the community’s entire snow crab quota without hiring any non-Natives to captain Salt Harbour boats. Pam Harper, Salt Harbour Fleet Manager, said that the fishermen and Band Council were extremely proud of this accomplishment, though they experienced some animosity from non-Native fishermen who had expected to be hired by the Band to fish for the community’s quota as they had each year since the *Marshall* decision. “They [non-Native fishermen] told me, ‘Your fishermen can’t do this. They don’t know what they’re

doing.’ My challenge was to the [Salt Harbour] fishermen. We have a lot of talented fishermen” Ms. Harper said. Salt Harbour fishermen finished their quota two weeks before the season ended, pulling in “the most tonnage they ever got,” according to the Band Council (Interview with PH 8/05). Successes like the 2005 snow crab fishery serve to strengthen community pride, as well as rewarding individual fishermen with payouts for their hard work.

In the five years since the *Marshall* decision, Salt Harbour fishermen and fisheries employees have navigated many hurdles to their successful entry into commercial fisheries, including negotiations with the Canadian government and getting training for new fishermen. Perhaps the most significant fisheries issue Salt Harbour is dealing with now is the varying ways that community members are approaching the fisheries. In the *Marshall* ruling, the Supreme Court of Canada recognized the Mi’kmaq right to commercial fishing as a communally-held right; however, in a capitalist industry that places value on high catch numbers and individual performance, some Mi’kmaq fishermen are seeing the benefits of working for individual—rather than collective—gain (R v. Marshall 1999, Interviews with HP 1/05; TW 7/05; CW 7/05; and MA 8/05). According to Mr. Prentice, the average Salt Harbour fisherman makes about \$20,000 (Canadian dollars) per year, though some fishermen can pull in from \$80,000-\$180,000; both estimates are excluding the unemployment insurance most fishermen collect from the federal government during the seasons when fisheries are closed (Interview with HP 1/05). The climate of the commercial fisheries is changing in Salt Harbour, and, in turn, so are collective and individual ideas about what it means to be a fisherman in the community today.

Through their experiences with activism and recent negotiations with the federal government, Salt Harbour residents have engaged in dialogues about the meaning of fishing, and fisherman identities emerging through these struggles have done so in complicated dialogues with individual rights and collective cultural identities. Based on my research to date, it appears that this tension between individualism and collectivism is a central point of contention in Salt Harbour. SHCF employees and other community-minded Salt Harbour residents extol the potential long-range benefits of commercial fisheries whose profits are reinvested in the community, while others see new opportunities to earn a comfortable living, have a dependable job, and buy their children clothes and toys that would be out of reach without income from the fisheries (Interviews with HP 1/05; CW 7/05; TM 7/05; and TW 7/05). These more “individualistic” fishermen, while drawing on past experiences with the fisheries, treaty struggles, the *Marshall* decision, and countless other social and economic factors and events, are constructing personal identities as fishermen that differ from pre-*Marshall*, Mi’kmaq communal fisherman identities. Nevertheless, this new kind of Salt Harbour fisherman retains community ties and positive visions for community life, although the ways they are relating fishing practices to culture and community life is changing.

Neither have Mi’kmaq fishermen taking individualistic approaches to the commercial fisheries separated themselves completely from the cultural aspects of fishing. For Mi’kmaq people, fishing is a core cultural activity central to Mi’kmaq cosmologies and traditions (Native Council of Nova Scotia 1993, Interviews with HP 1/05; TW 7/05; JA 7/05, MA 8/05). The cultural importance of fishing has also been a guiding force in past treaty struggles, where it has been depicted as a collective

characteristic that makes Mi'kmaq people distinct from non-Native peoples (Coates 2000). Cultural identities for these individual-minded fishermen are being negotiated not only in a dialogic relation to the identities of non-Native fishing communities, but also with the changing landscape of Mi'kmaq cultural identity.

Communally-oriented Fishing

The *Marshall* decision has had significant impacts on community life in Salt Harbour, even aside from the obvious changes in fisheries practices. Mr. Prentice and I spent a day together in Salt Harbour in January, 2005 talking about how fishing has changed in recent years. For him, successful commercial fisheries are linked to community successes—to improvements in infrastructure, employment opportunities, and educational opportunities for the community's children and fishermen seeking additional training. Through reinvestment of profits from commercial fisheries, as well as with investing money given by the DFO as part of Salt Harbour's 2000 Interim Fisheries Agreement, the community has experienced some successes in these areas. Proceeds from these sources have been used to build a new youth center, construct several new homes for residents, and buy boats for those involved in both commercial and food fisheries. As we drove through Salt Harbour, Mr. Prentice would occasionally slow his truck to point out a house with a boat in the yard. "We [SHCF] gave him a boat, and he's doing well now," he would tell me proudly. Mr. Prentice's sense of what it means (or *should* mean) to be a Mi'kmaq fisherman in the post-*Marshall* era is changing, I argue, in the context of his sense of pride in the tandem success of commercial fisheries and local quality of life improvements.

Community improvements (infrastructural, economic and social) directly connected to income from post-*Marshall* fisheries are a source of great pride for many in the Salt Harbour community. Supporters of communally-oriented fisheries at Salt Harbour often employed discourses of sharing and traditional Mi'kmaq practices to talk about their hopes for the future of commercial fishing. For instance, two older, retired fishermen I interviewed said that revenue from commercial fisheries should be used to create a community freezer where community members would be able to access nutritional food year round, at no cost (Interviews with HP 1/05; and TW 7/05). This rhetoric of communalism is similar to that used by Mi'kmaq leaders to argue for the continuity of treaty rights during the *Marshall* trial (Wicken 2002). Like Mr. Prentice, Pam Harper and Thomas Whitmann see opportunities in the new commercial fisheries for enriching the lives of all Salt Harbour residents. Ms. Harper spoke about the camaraderie of Mi'kmaq fishermen out on the water, and the pride their families feel in their accomplishments (Interview with PH 8/05). She likened this pride and community cohesiveness to an earlier time when Mi'kmaq chiefs were chosen on the basis of their hunting and fishing skills. "I think that, in our community, we're going to see a lot more of that," she said, referring to the community-recognized prestige that comes with being a successful commercial fisherman today (Interview with PH 8/05).

The *Marshall* decision is also providing commercial fishermen with the ability to preserve cultural meanings and practices in new and creative ways. For instance, the decision has enabled many Salt Harbour fishermen who were previously unemployed or doing subsistence fishing (known locally as "food fishing") to fish commercially, freeing up food fishing licenses. Mr. Whitmann would like to see

these licenses put to use to feed more people in the community. “We could take the [food fishing] tags away from the commercial fishermen and put them to good use. We could use [the tags] to feed the elders and the ladies who have babies. They won’t be able to go out there and fish. Now, we’re looking at these fish [from food fisheries] that we could disperse to the whole community” (Interview with TW 7/05). He also stressed the importance of ceremonial fisheries to community elders, noting that younger fishermen are more interested in the wealth that comes from commercial fisheries than in the cultural significance of fish. “They [young people] don’t really care about these eels, but the old people care about them because they’ve eaten them all their lives” (Interview with TW 7/05). Preservation of the ties between Mi’kmaq communal culture and fishing is clearly important to Mr. Whitmann, and he is working to develop innovative programs to ensure the persistence of these ties by taking advantage of opportunities for communally-oriented fishing that have arisen in the post-*Marshall* years.

Although Mr. Whitmann and others in Salt Harbour advocate community-minded commercial fisheries, they also understand the lure of independence and money driving some fishermen in the community to individualistic fisheries practices. For instance, Mr. Whitmann’s son, Chip, fishes commercially, and as a result of his new income, “he paid out his truck, and he bought a lot of clothes for the kids. He’s happy that he made that hard-working money himself...He’s working hard in his community for his things” (Interview with TW 7/05). For Mr. Whitmann, the traditional cultural aspects of fishing are not present in commercial fisheries, but he is proud of his son for working in the community and contributing to community life. This raises the point that fisherman identities developing in the post-*Marshall*

years are perhaps emerging for some as identities de-linked from traditional fishermen identities or more general cultural identities. In promoting community-minded commercial fisheries, Mr. Prentice and Mr. Whitmann are affirming a vision of communally-based (but not necessarily traditionally-based) fisherman identities. However, other Salt Harbour fishermen are thinking about treaty rights to fish somewhat differently. Though they envision a role for commercial fisheries in the development of social and economic programs and infrastructure in Salt Harbour, they are taking a different approach to community development through fisheries.

In his Master's thesis on the impacts of the *Marshall* decision on local economic practices in Mi'kmaq communities, Ross (2001) remarks on the irony of the court decision upholding communally-held rights to commercial fisheries. He asserts that, while the *Marshall* ruling recognized treaty rights as communal, they are often being exercised by individuals who are not bound to—and often do not choose to—reinvest their earnings back into their communities. Ross employs a Marxist framework to claim that the collapse of traditional Mi'kmaq interpretations of treaties and communal economic practices in favor of the rise of western capitalist modes of production is causing the dissolution of Mi'kmaq communal life. Certainly, the opportunities resulting from *Marshall* decision have enabled many previously unemployed and underemployed people in Salt Harbour to achieve considerable individual success in the commercial fisheries, and these successes are leading some to configure their identities as fishermen in more individualistic ways. However, it can also be argued that the profits from commercial fishing are making it economically viable for more fishermen to remain in Salt Harbour, rather than having to move away from the community—and their social and kin networks—to

find work. In this sense, the *Marshall* decision can be seen as strengthening community ties. Nonetheless, individualistically-oriented fishermen are forging a new space for themselves within the world of Mi'kmaq fisheries, and not without some resistance.

The post-*Marshall* emergence of individualistically-minded fishermen (sometimes characterized as “greedy” by communally-minded fishermen) was one that was brought up repeatedly by Mi'kmaq and DFO fisheries officials in a January 2005 fisheries conference held in Fredericton, the provincial capital of New Brunswick. At this conference, a main topic of official presentations, as well as informal conversations, was how to formulate successful *community fisheries* by encouraging successful individual fishermen to reinvest their earnings in the community.

Advocates of this idea argued that higher levels of reinvestment would help the community to better address infrastructural, health, employment and educational needs, as well as helping local fisheries become self-sustaining (Interviews with HP 1/05; and JA 6/05). Yet I was reminded by two SHCF employees attending this conference, that there are currently no regulations requiring Salt Harbour fishermen to invest their earnings in community projects. Individual fishermen from Salt Harbour have every right under the agreements to sell their catch independently to the processor who offers them the most money (though some Bands have negotiated agreements with private processors and fishermen using band-owned boats are encouraged or even obligated to sell to these processors.) Mr. Prentice mentioned that some Salt Harbour fishermen are selling their catch to distributors from China, Japan and southeast Asia, where Atlantic seafood fetches premium prices (Interview with HP 1/05, APC 2005).

Those with communally-based visions for Mi'kmaq community fisheries, like Mr. Prentice and his colleagues at SHCF, are concerned by this trend of individual, corporate-minded fishermen. Fishing, they argue, has always been an integral part of Mi'kmaq community life, and individualism can be damaging to the community in general, as well as to fisheries management plans, which require community support as to how, when and by whom resources can be harvested. It is clear that fishermen in Mi'kmaq communities are not of one mind about how to relate to the fisheries since the *Marshall* decision opened opportunities for commercial participation.

Individualistically-oriented Fishing

In this changed climate, fishermen are relating to fisheries resources in new ways, but also drawing on shared experiences and cultural beliefs to do so. For instance, communally-minded fishermen are drawing on traditional ideas about the role of fishing in communities, and trying to situate these ideas within the context of the commercial fishing industry. Individualistically-oriented fishermen, on the other hand, are also invoking ideas about Mi'kmaq culture to justify their participation in the fisheries by reworking the idea of a Mi'kmaq communal identity to include *individual persons exercising collectively-held, culturally-based treaty rights* to the fisheries. As seen above, these cultural rights, however, do not always translate into culturally-based fisheries practices. For instance, Matthew Albert, a young Salt Harbour fisherman, rebuked my questions about links between Mi'kmaq culture and commercial fishing. "There's no culture in this business... This [commercial fishing] isn't traditional...The Mi'kmaq salmon fishery [a food fishery], that was traditional," he told me. According to him, the Mi'kmaq treaty right to commercial fisheries is the

only cultural component of his fishing practices (Interview with MA 8/05).

Commercial fisheries, he said, offer Mi'kmaq people employment, but fishermen are not thinking about culture or tradition when out on their boats. Chip Whitmann, another young commercial fisherman from Salt Harbour said that although he did not view the practices of commercial fisheries as traditional, he said that he does feel a connection to his community and the past when he is out on the water fishing. He told me, "My grandfather used to go out and do food fishing, and he told me this is the place to be. He kept saying that, and it sank into my head eventually" (Interview with CW 7/05). According to these two young fishermen, the *Marshall* decision relates to Mi'kmaq culture because of treaty rights it upheld, but not necessarily through the changing practices of commercial fishermen today.

I propose that because Matthew Albert, Chip Whitmann and other individualistic fishermen do not view commercial fishing practices as culturally-based, they are developing identities as commercial fishermen that are different from the culturally-based identities of food fishermen. Jack Albert, Matthew's brother, concurred with this assessment. When asked if he thought commercial fishermen were relating their practices to their Mi'kmaq cultural identities, he said, "No. To them, it's a [commercial] venture. They can't think about it [commercial fishing] as tradition or culture, because, back then [before the *Marshall* decision], we were not allowed to sell our catch" (Interview with JA 7/05). With this comment, Mr. Albert is also asserting that commercial fishing cannot be viewed in any way as a traditional practice because it had not been done before the *Marshall* decision.

Today, Mi'kmaq commercial fishermen compete with each other and with their non-Native neighbors for a share of the lucrative commercial fishing industry, and

this market-based competition appears to be influencing local economic orientations as well as fishing practices. Individualistic, market-based approaches to fisheries appear to be largely incongruent with the practices and meanings of fishing described as traditional by communally-oriented fishermen, and this disconnection may explain why some young fishermen from Salt Harbour are reticent to invest their earnings into community programs administered by SHCF or the Band Council (according to interviews with HP 1/05 and TW 6/05). Nevertheless, despite their individualistic approach to commercial fisheries, the young fishermen I interviewed are committed to the Salt Harbour community, and improving the quality of life for its residents. Like their approaches to fishing, though, their attitudes toward community advancement are largely based on accumulating market-based wealth, rather than on communally-based wealth distribution. For instance, these fishermen are contributing to improving the quality of life in the community by buying new clothing, trucks, furniture and televisions for their families—luxuries and comforts out of reach before they began fishing commercially (Interviews with JA 7/05; TW 7/05; and HP 1/05). Matthew Albert, a fisherman and father of three young children told me, “I’m doing this so that my kids don’t have to.” With the money he is bringing in from the commercial fishery, he hopes to provide his children with opportunities to go to university and find employment other than fishing (Interview with MA 8/05). Chip Whitmann said that he would like more people in Salt Harbour to establish businesses within the community so that he can spend the money he earns from fishing in the community, rather than off-reserve. He cited another Mi’kmaq community in the region where revenue from commercial fisheries has bolstered the local economy, allowing local businesses – including an

on-reserve credit union cooperative – to thrive (Interview with CW 7/05).

Regardless of their economic orientations toward commercial fisheries, Salt Harbour fishermen are intent on improving life for those in their community, ensuring the persistence of community values, knowledge and material culture that Gudeman (2001) refers to as a community’s “base.” Although commercial fisheries are resulting in the development of new practices and meanings, the income fishermen are earning also allows them to remain in their communities and ensure the continuance of family ties and other components of communal, cultural life—essential elements of the Mi’kmaq base. In this sense, Mi’kmaq commercial fisheries could be viewed as a hybrid economy – one that focuses not only on the accumulation of wealth, but is also concerned with addressing local community needs.

CHAPTER V

CONCLUSION

During a visit to Salt Harbour in January 2005, Henry Prentice and I drove out to the shipyard at Saint-Luc, a small village near Salt Harbour, where about 15 of the community's boats were being stored until the spring thaw. A few of the boats were independently owned and had been passed down from father to son, but the majority of the boats stored on this snowy lot belonged to the Salt Harbour Band Council and were used by fishermen relatively new to the commercial fisheries. As we walked around the yard, he told me stories about their captains, and about how individual and community fishing practices and attitudes have changed in recent years. It was clear that Salt Harbour fishermen have been affected by the momentous changes ushered in by the *Marshall* decision, and that they are actively working to renegotiate their roles in their changing community, and in emerging Mi'kmaq commercial fisheries. The data presented here paints a picture of the changing situation in Salt Harbour—one that is occurring, at least in broad strokes, in other Mi'kmaq communities in the region. Years of persistent activism for treaty rights have shaped people's local engagements with natural resources, with the Canadian state, and with the cultural aspects of fishing. In turn, these local experiences have continually reshaped the large-scale, enduring struggles of Mi'kmaq people for symbolic and material resources. The *Marshall* decision, I have argued, is a

particularly relevant site from which to examine these ongoing changes. The decision, though a single event in the wider landscape of Native treaty conflicts, created a dramatic slippage in the social fabric of the Atlantic Canadian fisheries, and is leading Mi'kmaq fishermen to refigure their identities in relation to both traditional cultural values and new economic opportunities. Ross's (2001) provocative analysis of the dissolution of Mi'kmaq sociocultural life as a result of the rise of Western capitalist modes of production is useful for thinking about some of the recent changes in Mi'kmaq communities; however, this approach does not address many of the complex local-level shifts occurring in the post-*Marshall* era. Drawing on social practice theory, I have asserted that this landmark court decision has created new conditions for Mi'kmaq fishermen to construct identities through dialogues and practices carried out in many Mi'kmaq communities. It is still important, however, to acknowledge, however, the embeddedness of these new identity processes within long-term conflicts between the Canadian state and Mi'kmaq First Nations people.

Though this paper focuses on the specific case of Mi'kmaq struggles for treaty rights and the reworking of fisherman identities in the post-*Marshall* era, it is hoped that the approach taken here to examining these processes might have more general applications to understanding identity issues in other conflicts over natural resources. Cultural identities reshaped through participation in environmental conflicts change how people take part in community life, and how they develop a sense of themselves as individuals and as resource managers. This approach allows insight into the locally specific ways that people engage with large-scale struggles,

and how these enduring struggles are being constantly reshaped through new meanings and practices.

As Mi'kmaq people work to reshape their cultural and economic relations to fish and fishing in Atlantic Canada, constructing new fisherman identities through these shifts, they are also reformulating another relationship to the fisheries: that of resource managers. Though beyond the scope of this paper, it is worthwhile to briefly reflect on the limitations of this paper, and possibilities for future research considering the political ecology of resource use and management in the post-*Marshall* era, and how this might be understood in relation to identity processes. Ethnographic data presented in this thesis points to some of the ways in which Mi'kmaq people are formulating new knowledge about fishing and resource management, and the highly politicized contexts in which this knowledge is being shaped (e.g., long-term struggles with the state.) The claims I make in this paper primarily address Mi'kmaq fishermen's changing relationships to fishing in terms of their shifting identities, though the politicized landscape in which these identities are being constructed is apparent in Mi'kmaq people's descriptions of their relations with the state both before and after the *Marshall* decision. A more complete analysis in this paper of the political ecology of post-*Marshall* Mi'kmaq fisheries was curtailed by insufficient data; however, this topic merits further research, and is one I plan to explore in greater depth in my dissertation research.

Such a longer-term research project would integrate theoretical frameworks from across several disciplines in order to understand the complexity of Mi'kmaq people's changing involvements with fishing and fisheries management. In particular, political ecology presents an exciting framework for addressing structures

perpetuating inequalities of access to, control over and the conditions of natural resources. Rocheleau (1999:22) succinctly defines political ecology as the interplay of “the social relations of power and the formation and functioning of ecologies and landscapes.” This approach, which has its roots in cultural ecology and geography, economic anthropology and political economy, seeks to understand the roles of power and inequality in the social construction of nature, and of human/nature relationships (Dove 2005; Escobar and Paulson 2005; Gezon and Paulson 2005). These relationships are elucidated by attending to multiple scales of time and space where conflicts over resources are constructed and meanings are produced and contested. Recent work in political ecology has been centrally concerned with the co-constructive relationship between global and local technologies, discourses, economies and power structures (see Escobar 1998; Hornborg 2001; Gezon 2005). For instance, Gezon (2005) argues that local conservation discourses must be understood as embedded in multiscalar political and economic projects, such as state-sponsored development projects, which affect how conservation practices are enacted locally. For Paulson and Gezon (2005), this attention to the political is central to understanding inequalities in resource distribution and why one definition of a resource or strategy (e.g., sustainability or conservation) is privileged over others.

Political ecology’s attention to power and social construction complements the social practice theory framework used in this thesis to explore the local and large-scale enduring struggles informing Mi’kmaq people’s orientation to fishing in the post-*Marshall* era. Viewing such processes as happening *in practice* allows for a greater understanding of the nuanced, locally and historically contingent ways that

meanings, practices and identities are being figured and refigured in Mi'kmaq communities today. Further, I propose that integrating these two theoretical frameworks with elements of common property theory—which focuses primarily on how resource user groups are defined, and how rules for accessing and using natural resources are devised and enforced (see Ostrom 1992)—could yield a more complete picture of how relationships between humans and natural resources are being reformulated in the post-*Marshall* era, and how Mi'kmaq people are approaching resource management.

Research questions that such an integrated approach would help to address include: What role does the cultural politics of Mi'kmaq identity play in constructing meanings and practices related to commercial fisheries today? How are Mi'kmaq concepts of the “proper relations” between humans and nature articulating with state-sponsored resource management plans? What are the sources of Mi'kmaq knowledge about the state of fisheries resources? How are emerging economic practices in Mi'kmaq communities today articulating with changing political economies in the region? How has their engagement with the commercial fishing industry influenced Mi'kmaq orientations to fish and fishing in terms of how fish are valued in local contexts? Further, an understanding of these interrelated processes could have implications for fisheries policy and multi-stakeholder resource management negotiations.

BIBLIOGRAPHY

- Aretxaga, Begoña
1997 *Shattering Silence: Women, Nationalism and Political Subjectivity in Northern Ireland*. Princeton: Princeton University Press.
- Asch, Michael and Patrick MacKlem
1991 *Aboriginal Rights and Canadian Sovereignty: An Essay on R. v. Sparrow*. *In Alberta Law Review*. 29: 498-517
- Atlantic Policy Congress of First Nations Chiefs Secretariat
2005 *Best Practices: APC Fisheries Meeting*. Conference, Fredericton, NB. Jan. 18-19. [Cited in text at APC 2005.]
- Bakhtin, M.M.
1986 *Discourse in the Novel*. *In The Dialogic Imagination*. Austin: University of Texas Press.
- Barsh, Russel Lawrence
2002 *Netukulimk Past and Present: Mi'kmaw Ethics and the Atlantic Fishery*. *In Journal of Canadian Studies*. 37(1):15-42.
- Battiste, Marie and James Sa'ke'j Youngblood Henderson
2000 *Protecting Indigenous Knowledge and Heritage*. Saskatoon: Purich Publishing Ltd.
- Bedwell, Patricia Doyle
1999 *Compensation for Residential School Survivors*. *Wabanaki Legal News*. 3(1).
- Bourdieu, Pierre
1977 *Outline of a Theory of Practice*. Cambridge: Cambridge University Press.
- Brown, Wendy
1993 *Wounded Attachments*. *In Political Theory*. 21(3): 390-410.

1995 *States of Injury: Power and Freedom in Late Modernity*. Princeton: Princeton University Press.
- Caddy, J.F.
2001 *The Caddy Report: The Lobster Resource in the Miramichi Bay: The state of knowledge of the lobster resource in Miramichi Bay and adjacent waters; some suggestions for conflict resolution over fishing seasons, and ideas for fisheries research in support of lobster management*. Report to the

Department of Fisheries and Oceans. Electronic document, www.dfo-mpo.gc.ca/communic/marshall/related/caddy/report_e.htm.

CBC News

1998 Nisga'a members sign historic treaty. CBC News, Nov. 13. Electronic document, www.cbc.ca.

1999a First Nations people want Ottawa to leave fisheries ruling alone. CBC News, Oct. 5. Electronic document, www.cbc.ca.

1999b Native Fishermen in Burnt Church vow to defy moratorium. CBC News, Oct 8. Electronic document, www.cbc.ca.

2000a Ottawa cracks down on Native fishermen in N.B. CBC News, Jun. 2. Electronic document, www.cbc.ca.

2000b Mi'kmaq plan to continue fishing despite threats. CBC News, Nov. 10. Electronic document, www.cbc.ca.

2000c Mi'kmaq angry over Federal approach to negotiations. CBC News, Feb. 3. Electronic Document, www.cbc.ca.

2002 Burnt Church, Ottawa Reach Fishing Deal. CBC News, Aug 2. Electronic document, www.cbc.ca.

2003a Band may defy crab protest. CBC News, May 8. Electronic document, www.cbc.ca.

2003b Natives to start fishing snow crab. CBC News, May 15. Electronic document, www.cbc.ca.

2004a Indian Brook moves closer to fisheries deal. CBC News, Mar. 19. Electronic document, www.cbc.ca.

2004b Newfoundland's Cod Fishery. CBC News, May 4. Electronic document, www.cbc.ca.

2005a Youth needed in fishery: researcher. CBC News, Mar. 18. Electronic document, www.cbc.ca.

2005b Native fishermen issue ultimatum. CBC News, June 6. Electronic document, www.cbc.ca.

2005c Native lobster fishermen plan fall season. CBC News, June 23. Electronic document, www.cbc.ca.

- 2005d Charges possible after food fishery protest. CBC News, Aug. 6.
Electronic document, www.cbc.ca.
- Chiarelli, Nina
2005 Natives to keep fighting for right to log Crown land. July 21, Telegraph
Journal, A1, A2.
- Coates, Ken, ed.
1992 *Aboriginal Land Claims in Canada: A Regional Perspective*. Toronto:
Clark Copp Pitman, Ltd.
- Coates, Ken
2000 *The Marshall Decision and Native Rights*. Montreal & Kingston:
McGill-Queen's University Press.
- 2003 *Breathing New Life into Treaties: History, Politics, the Law and
Aboriginal Grievances in Canada's Maritime Provinces*. In *Agricultural
History*. 77(2): 333-59.
- Culhane, Dara.
1998 *The Pleasure of the Crown: Anthropology, Law and First Nations*.
Burnaby, BC: Talon Books.
- Daily Gleaner
1971 Indians Place Nets Despite Salmon Ban. Daily Gleaner, Oct 18: 5.
- 1975 Fenety Urges Stop To Salmon Fishing By N.B. Indians. Daily Gleaner,
Sept. 6: 2.
- 1977a Indians Plan Force To Keep Fishing Nets. Daily Gleaner, July 14: 2.
- 1977b Kingsclear Reserve Indians Will Continue to Net Salmon. Daily
Gleaner, July 9: 1.
- 1977c Further Action Planned Against Salmon Netting. Daily Gleaner. July
12: 15.
- Descola, Philippe & Gísli Pálsson
1996 *Nature and Society: Anthropological Perspectives*. London: Routledge.
- Dove, Michael
2005 *Shade: Throwing Light on Politics and Ecology in Contemporary
Pakistan*. In *Political Ecology across Spaces, Scales, and Social Groups*. S.
Paulson and L. Gezon, eds. Pp. 217-138. New Brunswick: Rutgers University
Press.
- Escobar, Arturo

- 1998 Whose Knowledge, Whose Nature? Biodiversity, Conservation and the Political Ecology of Social Movements. *In Journal of Political Ecology*. 5:53-82.
- Escobar, Arturo and Susan Paulson
2005 The Emergence of Collective Ethnic Identities and Alternative Political Ecologies in the Columbian Pacific Rainforest. *In Political Ecology across Spaces, Scales, and Social Groups*. S. Paulson and L. Gezon, eds. Pp. 257-277. New Brunswick: Rutgers University Press.
- Fisheries and Oceans Canada
2004 The Marshall Response Initiative. Electronic document, http://www.dfo-mpo.gc.ca/communic/marshall/Marshall/index_e.htm.
- Gudeman, Stephen
2001 *The Anthropology of Economy*. Malden, MA: Blackwell Publishing.
- Hall, Stuart and Paul du Gay
1996 *Questions of Cultural Identity*. London: Sage.
- Hatch, Marcel
1998 First Nations Press for Rights and Restitution. *In Freedom Socialist*. 19(1).
- Holland, Dorothy and Jean Lave
2001 Introduction. *In History in Person: Enduring Struggles, Contentious Practice, Intimate Identities*. Dorothy Holland and Jean Lave, eds. Pp. 3-33. Santa Fe: School of American Research Press.
- Holland, Dorothy, William Lachicotte Jr., Debra Skinner and Carole Cain
1998 *Identity and Agency in Cultural Worlds*. Cambridge, MA: Harvard University Press.
- Holquist, Michael
2002 *Dialogism*. Rev. edition. London: Routledge.
- Hornborg, Alf
1994 Environmentalism, ethnicity and sacred places: Reflections on modernity, discourses and power. *In Canadian Review of Sociology and Anthropology*. 31(3):245-267.

2001 *The Power of the Machine: Global Inequalities of Economy, Technology, and Environment*. Walnut Creek: Altamira Press.
- Hornborg, Anne-Christine

- 2001 *Landscape of Left-overs: Changing Conceptions of Place and Environment Among Mi'kmaq Indians of Eastern Canada*. Lund: Lund University Press.
- Isaac, Thomas
2001 *Aboriginal and Treaty Rights in the Maritimes: The Marshall Decision and Beyond*. Saskatoon: Purich Publishing Ltd.
- Knockwood, Cheryl
2003 *The Mi'kmaq-Canadian Treaty Relationship: A 227 Year Journey of Rediscovery*. In *Box of Treasures or Empty Box?: 20 Years of Section 35*. Ardith Walkem and Halie Bruce, eds. Pp. 43-61. Penicton, BC: Theytus Books Ltd.
- Maher, Stephen
2005 Native logging cut short. *The Chronicle Herald*, July 21: A1, A2.
- McLean, Ken
1999 Editorial Letter. Cross-country Check-up. CBC Radio. Online letter. <http://www.cbc.ca/checkup/archive/letters991003.html>
- Mackey, Eva
2002 *The House of Difference: Cultural Politics and National Identity in Canada*. Toronto: University of Toronto Press.
- Maritime Aboriginal Rights and Land Claims Commission
2000 *Handbook on aboriginal title: The basis of the Native peoples' claims in N.B., N.S., and P.E.I.* Fredericton: N.B.: Harriet Irving Library.
[Cited in paper as MARLCC 2000.]
- Micmac History
1999 *Micmac History*. Electronic document, <http://www.dickshovel.com/mic.html>.
- Native Council of Nova Scotia
1993 *Mi'kmaq Fisheries, netukulimk: Towards a Better Understanding*. Truro, N.S.: Native Council of Nova Scotia, Language Program.
- Nadasdy, Paul
2003 *Hunters and Bureaucrats: Power, Knowledge, and Aboriginal-State Relations in the Southwest Yukon*. Vancouver: UBC Press.
- Neizen, Richard
2003 *Origins of Indigenism: Human Rights and the Politics of Identity*. Berkeley: University of California Press.
- Obomsawin, Alanis, dir.

- 2002 *Is the Crown at War with Us?* 96 min. National Film Board of Canada. Canada.
- Ostrom, Elinor
 1992 *The Rudiments of a Theory of the Origins, Survival, and Performance of Common-Property Institutions*. In *Making the Commons Work: Theory, Practice and Policy*. D. Bromley, ed. San Francisco: International Center for Self-Governance.
- Paulson, Lisa and Susan Gezon
 2005. *Political Ecology Across Spaces, Scales, and Social Groups*. New Brunswick: Rutgers University Press.
- R. v. Marshall
 1999 S.C.R. 456. Supreme Court of Canada.
- Rocheleau, Dianne. 1999. "Commentary on 'After Nature: Steps to an Anti-Essentialist Political Ecology,' by Arturo Escobar." *Current Anthropology*. 40(1):22-23.
- Ross, Robbie
 2001 *The Irony of the Marshall Ruling: Using the Maritime Peace and Friendship Treaties to Dissolve Mi'kmaq Communal Life*. M.A. Thesis. The University of New Brunswick.
- Sahlins, Marshall
 1985 *Islands of History*. Chicago: University of Chicago Press.
- St. George's Bay Mi'kmaq
 2002 *Mi'kmaq of Newfoundland Still Unrecognized*. Press Release, March 27. Electronic document, www.jasenbenwah.ca/nschiefs_support.html.
- Sallot, Jeff
 2005 *Top court fells Native logging*. *Globe and Mail*, July 21: A1, A4.
- Satterfield, Terre
 2002 *Anatomy of a Conflict: Identity, Knowledge and Emotion in Old-Growth Forests*. Vancouver: UBC Press.
- Warren, Kay B.
 2001 *Indigenous Activism across Generations: An intimate Social History of Antiracism Organizing in Guatemala*. In *History in Person: Enduring Struggles, Contentious Practice, Intimate Identities*. Dorothy Holland and Jean Lave, eds. Pp. 63-91. Santa Fe: School of American Research Press.
- Wiber, Melanie
 2000 *Fishing Rights as an Example of the Economic Rhetoric of*

Privatization: Calling for an Implicated Economics. *In Canadian Review of Sociology and Anthropology.* 37(3):267-288.

Wiber, Melanie and Julia Kennedy

2001 Impossible Dreams: Reforming Fisheries Management in the Canadian Maritimes After the *Marshall* Decision. *In Law & Anthropology.* 11:282-297.

Wicken, William C.

2002 *Mi'kmaq Treaties on Trial: History, Land, and Donald Marshall, Jr.* Toronto: University of Toronto Press.

Zscheile, Eric

1997 A Legal Overview of Marshall I & II. Paper presented at Looking Forward: Treaty Implementation, a conference co-hosted by Atlantic Policy Congress of First Nations Chiefs and Assembly of First Nations, St. John's, Newfoundland, February 1-3.