

# Center for Community-Based Resource Management (CBRM)

Natural Resources Institute, University of Manitoba

## CBRM Database

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<b>Case Study Name:</b>	An Overview Of Legal Issues And Broad Legislative Considerations For Community-Based Fisheries Management		
<b>Author:</b>	Kuemlangan B. Teigenem H		
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<b>Region:</b>	Northern America		
<b>Country:</b>	Canada and USA		
<b>Ecosystem Type:</b>	Aquatic (big river-based)		
<b>Social Characteristics:</b>	Rural communities		
<b>Scale of Study:</b>	Regional		
<b>Resource Type:</b>	Fisheries		
<b>Type of Initiative:</b>	Development project/ International NGO initiative		

<b>Community Based Work:</b>	Resource management
<b>Keywords:</b>	community-based natural resource management (CBNRM), community based fisheries management (CBFM), Legislation
<b>Summary:</b>	<p>The fertile literature on community-based natural resource management (CBNRM) in general and in the fisheries sector in particular, shows that the implementation of such approaches to management will have a broad range of implications including policy, technical, institutional and legal implications. However, much discussion on utilising the community-based management approach in natural resource management to date has centred on its conceptual, economic and technical/management aspects. It is also important that the formal legal environment within which community-based management mechanisms be examined to determine whether it supports or will need necessary enhancement to support the implementation of CBNRM. It may even be necessary that such an examination takes place before or when CBNRM is being considered for utilization or trial. The question as to whether community based fisheries management (CBFM) is legally sustainable must be asked of the whole legal framework of the state - from fundamental laws such as the constitution, to subsidiary legislation. Amendments to existing legislation or new legislation may be necessary to implement CBFM. There is no blueprint as to how a CBFM should be set up in a legal framework, what number of rights with respect to management of the fish resources should be accorded, what should be the level of participation by the local community and whether it be at the level of consultation during the management process or through formal representation in consultative, advisory or decision-making institutions within the fisheries management framework, or whether it should be a devolution of management authority or of implementation powers, or both. It is important, however, to ensure that the constitutionality of all these aspects of fisheries management should be ascertained and to ensure that enabling legislation for CBFM consider the following issues: security, exclusivity, permanence of rights vested, flexibility of its provisions so as to allow the states to exercise choice that reflects its unique needs, conditions and aspirations for CBFM, and to ensure that CBFM harmonizes with the overall fisheries management legal framework. Attaining the right balance in the CBFM legal framework however is difficult and depends largely on local circumstances.</p>