

A COLLABORATIVE RESEARCH APPROACH TO EXPLORING
STRATEGIC CAPACITY BUILDING IN FOREST DECISION-MAKING WITH
EAGLE LAKE FIRST NATION

by

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Submitted in partial fulfilment of the requirements for the degree of
Masters of Environmental Studies

at

Dalhousie University

Halifax, Nova Scotia

August, 2021

Dalhousie University is located in Mi'kma'ki,
the ancestral and unceded territory of the Mi'kmaq.

We are all Treaty people.

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Table of Contents

LIST OF FIGURES	v
GLOSSARY	vii
ACKNOWLEDGEMENTS	viii
CHAPTER 1: INTRODUCTION	1
1.1 Problem Definition.....	1
1.2 Study Purpose and Objectives.....	3
1.3 Situating the Research Context	4
1.3.1 Territorial Context	4
1.3.2 Conflict and Collaboration in northwestern Ontario Forestry	7
1.4 Thesis Overview	9
CHAPTER 2: KEY RESEARCH THEMES	10
2.1 Introduction.....	10
2.2 Note About History.....	10
2.3 Key Influences on Indigenous Decision-Making in Land and Resource Governance	11
2.4 Governance	20
2.4.1 Governance as Interactions.....	20
2.4.2 Substantive Decision-Making in Governance.....	22
2.5 Cross-Cultural Collaboration in Forest Governance	26
2.6 Barriers to Equitable Power Sharing in Forest Governance Arrangements	28
2.7 Post-Colonial Forestry: Spaces of Engagement	30
2.8 Central Concepts to Equitable Collaborations	33
2.8.1 Nation-to-Nation Relationships	34
2.8.2 Knowledge Co-existence and Co-Production	34
2.8.3 Capacity Recognition and Capacity Building.....	35
2.8.4 Institutional Adaptation and Building Adaptive Capacity	36
2.8.5 Representative Assessments of Success and Accountability	37
2.8.6 Participation and Representation	38
2.9 Tools for Facilitating Equitable Partnerships.....	38
2.9.1 Strong Leadership.....	39
2.9.2 Spaces of Social Learning	39
2.9.3 Ethical Space of Engagement and Bridging Entities	40
2.9.4 Decentralized Research	40
2.9.5 Multiple Approaches to Engagement	41
2.9.6 Capacity and Resource Sharing	41
CHAPTER 3: RESEARCH DESIGN AND METHODS	43
3.1 Positionality and Worldview.....	43
3.2 Research Paradigm.....	45
3.3 The Collaborative Research Approach	46
3.4 Methods	48

3.4.1 Semi-structured Interviews	48
3.4.2 Participant Observation	49
3.4.3 Policy Analysis and Document Review	49
3.5 Analytical Framework.....	49
CHAPTER 4: RESULTS	51
4.1 Governing Institutions.....	51
4.2 Formal Governing Interaction.....	58
4.2.1 Treaties	60
4.2.2 Interactions Framed within the Forest Management Planning Process	62
4.2.3 Agreements.....	67
4.2.4 ELFN-Led Interactions	68
4.3 Dynamics of Conflict in Forest Decision-Making	69
4.3.1 History and Legacy of Mistrust	72
4.3.2 Complex Structure of the FMP Processes	75
4.3.3 Resource-Dependent Economy.....	79
4.4 Strategies.....	81
4.5 Impacts of Conflict on Decision-Making.....	85
CHAPTER 5: DISCUSSION.....	89
5.1 Trust.....	91
5.2 Non-Devolved Powers from the Government of Ontario	93
5.3 Capacity Imbalance.....	96
5.4 Negotiating Across Distinct Values and Knowledge Traditions.....	98
5.5 Opportunities.....	101
5.5.1 Incentives to Learn	101
5.5.2 Structural Opportunities.....	102
5.6. Chapter Summary	103
CHAPTER 6: CONCLUSIONS AND FINAL RECOMMENDATIONS	104
6.1 Thesis Project Summary	104
6.2 Conclusions and Recommendations	105
6.2.1 Toward a Broader Framework of Co-Existence.....	106
6.2.2 Working with Existing Structural Opportunities.....	107
6.2.3 Toward Improving Relationships.....	109
6.2.4 Final Thoughts	111
6.3 Contributions.....	111
6.4 Future Research	112
6.5 Limitations	113
REFERENCES	115

List of Tables

Table 1: Stages of relationships between settler-state government and Indigenous Peoples (RCAP, 1996a)	18
Table 2: Overview of prognostic and diagnostic framing.....	71
Table 3: Depiction of the main shared and divergent framings from participant groups	88

List of Figures

Figure 1: Organization Chart for OMNRF as relevant to the study area. Adapted from the OMNRF(2021e)* out of date as of June, 2021.	55
Figure 2: Map of the Forest Management Units Overlapping Traditional Territories of Eagle Lake First Nation	56
Figure 3: Typology of arrangements between ELFN and the local forestry sector. Adapted from Wyatt et al., (2013)	59
Figure 4: Formal stages where input will be solicited in the planning process (DFMC, 2021)	64
Figure 5: Formalized Consultation Mechanisms for Indigenous Peoples in the FMP Process (OMNRF, 2021e).....	66
Figure 6: Positioning laws across boundaries	69
Figure 7: Challenges to substantive decision-making in forest governing for ELFN as positioned within Kooimans' (2003) orders of governance.	89

Abstract

Forest governance across Canada is shifting toward greater recognition of Indigenous rights and new opportunities are opening that increase Indigenous control over resources in their traditional territories. While Indigenous participation is recognized as essential in forest governance, persistent barriers remain in reconciling the history of discrimination against Indigenous peoples and their exclusion from colonial land management structures. This project is part of a partnership initiated by Eagle Lake First Nation (ELFN), with the aim of supporting equitable participation in forest land decision-making. The design and process of this research operated through a collaborative framework to examine the current structural systems and the interpersonal dynamics involved in decision-making to illustrate how capacity strategies can be more holistically positioned to improve regional forest governing dynamics. The findings of this research indicate that without addressing both the institutional and the normative frameworks of decision-making, meaningful shared governance will not be achieved.

GLOSSARY

Capacity Building: Developing and strengthening the skills, resources of a community to respond to external and internal stress as well and to create or take advantage of opportunities to improve local wellbeing (Kusel, 2001).

Collaborative Research: Research that holds a focus and priority on community-based problem identification, and the collaborative design and implementation of the research process.

Collaboration: A process emphasized by devolution that highlights the processes of interactions among actors (Berkes, 2010).

Devolution: the ceding of power to local levels of authority in resource and land governance (Berkes, 2010)

Governing: “the totality of interactions, in which public as well as private actors participate, aimed at solving societal problems or creating societal opportunities.” (Kooiman, 2003 p.4)

Governance: The concept of governing interaction builds what Kooiman (2003) refers to as interactive governance, referring to the entirety of the governing system

Inherent Rights: Rights that flow from historical occupation and use of lands. Inherent rights not granted by any settlement agreements, rather have been practiced and enjoyed since pre-European contact. (Indigenous Foundations, 2009)

Normative Framework: The norms and principles decision-makers draw from when making governing choice, this may be effectiveness, legitimacy or moral rationality of ones choices (Kooiman, 2003).

Power: the probability that one actor within a social relationship will be in a position to carry out his own will despite resistance, regardless of the basis on which this probability rests” (Weber 1978 [1922], p. 53)

Strategic Capacity Building: Positioning efforts toward resource and skill development in specific directions as a response to identified problems, and identified goals.

Substantive decision-making: the ability of actors to make decisions toward substantive actions aimed at meaningful outcomes (Zurba et al., 2016).

Acknowledgements

I would like to first express my deepest gratitude to the partners of this work in Eagle Lake First Nation, and all those who shared their stories with me during this project. Chi-Miigwech for the teachings, the trust, and the collaboration throughout this process. A special thank you to Michelle all your support from the very first day to the last. I am grateful for your passion, enthusiasm and compassion.

Thank you to my co-supervisors Dr. Melanie Zurba and Dr. Ryan Bullock. Despite the curveballs we were all thrown over these few unprecedented years, you both continued to hold space for me, and encouraged me to lean into the challenges. Thank you to my committee member Dr. Peter Duinker for your thoughtful and present engagement, and for challenging me to consider new perspectives. To my external reviewer Dr. Peggy Smith, thank you for sharing your knowledge and thank you for your guidance. Thank you for the support of the Social Science and Humanities Research Council of Canada (SSHRC) Partnership Development Grant and the Ethics in Action who made this project possible.

Thank you to my family and friends who never got tired of hearing me talk about my thesis (or hid it well). To my fellow MES colleagues for your friendship, and your camaraderie. To my partner and best friend Rory, who during this year of being grounded in place always found new adventures.

Finally I'm grateful to Mi'kma'ki, the land I stayed upon for most of this process. Through all the changes and challenges this year brought, Mi'kma'ki always grounded me and reminded me to breathe.

CHAPTER 1: INTRODUCTION

1.1 Problem Definition

Control of natural resources in Canada has been characterized by colonial land management policies and hierarchical, centralized governance of land and resources (McGregor, 2002; Wyatt et al., 2013). The majority of forest land in Canada is public, with overlapping rights held by Indigenous people from historical occupation (traditional territories) as well as rights granted to the provincial governments to manage all Crown lands and resources through the *Constitution Act (1867)*.

In Ontario, the forest tenure system has historically allowed decisions to be centralized within the Ontario Ministry of Natural Resources and Forestry (OMNRF)¹ and largely alienated Indigenous communities from forest decision-making in their traditional territories, which often overlap the boundaries of Crown land (Bullock & Reed, 2016; National Aboriginal Forestry Assoc. (NAFA), 2003; Stevenson & Natcher, 2009). Despite the colonial structure of land decision-making, Indigenous communities continue to use different approaches to assert sovereignty over their traditional territories through direct action efforts such as the Grassy Narrows anti-clearcutting protests (Seymour, 2015), varying types of collaborative arrangements with non-Indigenous partners (Chambers, 2004; Wyatt et al., 2013), and Indigenous-led ventures (O’Flaherty et al., 2008). Yet, these assertions of sovereignty often mean negotiating arrangements

¹ The OMNRF was given this title in 2014 after several name changes over the previous years. As of June, 2021, the OMNRF changed names again to the Ontario Ministry of Northern Development, Mines, Natural Resources and Forestry (OMNDMNR). Given the changing name of the provincial ministry responsible for natural resources and various related portfolios in Ontario, I will use OMNRF in this thesis for consistency.

within the legislative frameworks set by colonial governments and that meet forest company priorities.

The policy arena has been shifting with efforts to renew Ontario's forest tenure models and create new avenues and possibilities of power-sharing (Wyatt, 2008; Zurba et al., 2016). This is supported by pressures such as The United Nations' Declaration on the Rights of Indigenous Peoples (UNDRIP), recognizing the right of Indigenous peoples to self-determination that includes participation in decision-making processes that affect their livelihoods (United Nations, 2007). As Armitage et al. (2012 pp.245) point out, "governments are no longer the most important sources of decision-making in the environmental field" and collaboration is necessary to address the complex problems built from the history of colonial management. However, persistent barriers remain to parties of collaboration to create meaningful ways of collaborating and equitable outcomes.

With the increasing opportunities for collaboration, there are increasing obligations placed on Indigenous communities that may not be endowed with the necessary capacities nor governance structures to support equitable and effective participation (Bullock, 2011). These capacity limitations are a result of the historical structures that excluded Indigenous peoples from decision-making in their traditional territories (Booth & Skelton, 2011b; McGregor, 2000). There is also increased pressure for communities to determine the specific capacities needed to strengthen their position, decide their terms of engagement, and increase their authority within existing arrangements (Beaudoin et al., 2015). In other words, there is a need to address capacity strengths and gaps to ensure Indigenous communities hold greater positions in strategic decision-making spaces rather than accepting types of agreements that work elsewhere,

or as offered by government or industry partners. With transitions of devolving governance and management of forest land, there is also complexity in navigating priorities and interests over land management. There are limitations for government and industry actors to devolve existing hierarchical frameworks to include expanded worldviews (Bullock, 2012; Wyatt, 2008). These disparities can be understood as legacies of historical decision-making that are now deeply embedded within current land and resources governance systems (Zurba, 2014).

Although there are growing sets of best practices, collaboration successes remain highly context-dependent. As a result, there is a need to understand the structural barriers imposed through policy and legislation that impact meaningful participation and collaboration in forest decision-making. Furthermore, there is a need to understand the local normative frameworks that work to facilitate or undermine efforts toward meaningful collaborative relationships. As such, this thesis is positioned at a strategic level to facilitate a high-level understanding of structural and normative frameworks that contextualize starting points for collaborations with Eagle Lake First Nation and, from there, to work to build capacity strategies toward more meaningful relationships.

1.2 Study Purpose and Objectives

This thesis emerged from an initiative put forth by Eagle Lake First Nation (ELFN) to establish a community-university partnership. research is based on the understanding that there are power imbalances in the current models of forest decision-making and barriers to equitable land decision-making for ELFN in their Traditional Land Use Area (TLUA). The issue explored in this thesis builds upon the recognition of this situation.

The central goal is to support ELFN as they continue to strategize and build capacity toward determining and pursuing their desired arrangements of forest decision-making by presenting a clearer picture of the barriers and opportunities. To address this central goal, four objectives were established collectively:

- 1) Outline the current forest decision-making arrangements on ELFN's TLUA ;
- 3) Explore the role of conflict in forest land decision-making.
- 2) Analyze barriers and facilitators to participation for ELFN within the current framework of land decision-making; and,
- 4) Offer recommendations to ELFN, industry and government toward greater land decision-making authority for ELFN.

1.3 Situating the Research Context

As this research has been completed through distanced methods and operates through a collaborative research, a deeper analysis of the context is explored through a combination of interviews and document reviews to inform an overview of governance. This section gives a brief overview of the context of the research, which is unpacked further in Chapter 4.

1.3.1 Territorial Context

The partner in this research is Eagle Lake First Nation (ELFN), known as Migisi Sahgaigan in Ojibwe (Anishinaabemowin). Geographically, Eagle Lake First Nation is located on the northeast shores of Eagle Lake within the Boreal and Great Lakes-St. Lawrence forests of what is now northwestern Ontario. It should be noted that the proximity of Indigenous communities to these forested lands is not simply geographical

nor livelihood-based but deeply rooted in community and the continuity of culture (Morse et al., 2005). The following quote explains:

Eagle Lake First Nation possesses a unique kinship with the lands and waters within the areas traditionally used by our families. Our lands hold places of historical, cultural, and spiritual significance that continue to exist today. The land is the source of all life and teachings. Therefore, ensuring the continued health of the lands is our ongoing responsibility and is a central component of our Anishinaabe culture and life. (Eagle Lake First Nation, 2017)

The forest region surrounding the community is dominated by jack pine, poplar, black spruce and white birch (Domtar, 2019; Dryden Forest Management Company, 2011). The economy of the area, along with much of northern Ontario, is heavily dependent on forest and mineral resources, which are at the centre of many of the relationships among those concerned with land activities (Conteh, 2017). In 2017, the Northern Policy Institute of Ontario released a report analyzing the trends in northern Ontario Economic Regions. The report noted several unique characteristics of northern Ontario as a whole, one of which was the overreliance on natural resource extraction, a second and closely related was the high dependency on external forces such as natural resource export and tourism (Conteh, 2017). Eagle Lake itself is a popular tourist and fishing destination along with the many other freshwater lakes and reservoirs in the region.

Eagle Lake First Nation, along with 27 other member communities, are provided services and support by Grand Council Treaty #3 (GCT3), which is the traditional government organization representing the 142,500 square kilometer land base of Treaty

#3 territory. The mandate of GCT3 is to provide political support to its 28 member communities concerning technical issues and strategic planning, including land and resources. In ELFN, the current governance system includes one Chief and three council members who are elected every two years to support the members of the Nation. As of 2017, ELFN's population was approximately 600 members, half of whom live off reserve (Eagle Lake First Nation, 2017). The ELFN Land and Resource Office is the main point of contact for Crown, industry, and forest decision-makers. The office is actively involved in decision-making within the ELFN TLUA, providing information to the Chief and Council concerning land and resources. ELFN works alongside other forest land decision-makers on any developments or issues within their TLUA which is overlaid by Crown Land.

The governing relationships involved in this research are located within the context of Treaty #3, Anishinaabe Nation territory. This land was planned to be the first post-Confederation treaty; however, the Anishinaabe asserted and maintained leadership until 1873 when Treaty #3 was signed. The treaty was signed after four exhaustive years through which the Saulteaux were prepared to sign an agreement that allows for rite of passage through their territory, and certain sections of land for specific purposes in exchange for defined annuities (Daughtry, 1986). However, the treaty was written and signed by the Crown with the understanding that land and jurisdictional authority was surrendered in exchange for specific rights and benefits (Daughtry, 1986; Luby, 2010). At the signing of the 1873 treaty, notes were taken on behalf of Chief Powasson, a signatory of the Treaty (Walmark, 1993). These notes provide a different account of the agreements between the Anishinaabe Nation and the British, which later became the known as the

Paypom Treaty. Many Anishinaabe peoples identify the Paypom Treaty to be the original Treaty, and continue to assert that the intent of the treaty is the establishment of shared lands (GCT3, 2011). The different interpretations of the intent of the treaty has led to ongoing conflict, and involvement of the courts to recognize Indigenous rights, and understanding of the agreement.

1.3.2 Conflict and Collaboration in northwestern Ontario Forestry

In what is now northwestern Ontario, relationships surrounding forest land have been marked by both conflict and collaboration. As suggested by Maclean et al. (2015), Indigenous groups often enter into consensus-building approaches within existing state planning regimes as well as constructive conflict that challenges inequalities and disrupts power with the attempt to facilitate behavioural changes in the existing regime. Conflict has been an important part of the forestry context for Eagle Lake First Nation and within Treaty #3. Many of the conflicts in the area are ongoing challenges stemming from the differing interpretations of the treaty and associated rights and benefits each party is entitled to.

Grassy Narrows First Nation v. Ontario (Natural Resources), 2014, is a key example of one such conflict used by Grassy Narrows First Nation to assert their Anishinaabe interpretation of Indigenous rights within the signed Treaty #3 agreement (Seymour, 2015). Grassy Narrows First Nation challenged a forestry licence that was issued by Ontario to a pulp and paper manufacturer who authorizes clear cutting which authorized clearcut forestry operations within the Keewatin area. Grassy Narrows took the position that Ontario did not have jurisdiction to take up lands that limit their harvesting rights without approval of the federal government. However, the court retained

that jurisdictional power remains with Ontario and only Ontario to take up lands under the Treaty #3 agreement, confirmed by constitutional provisions, the interpretation of the treaty, and legislation dealing with Treaty #3 lands.

Another recent and ongoing conflict is the movement to save Farabout Peninsula. The Farabout Peninsula is an area in the middle of Eagle Lake with ecological and cultural significance to ELFN. However, the legal management rights are held by the Dryden Forest Management Company (DFMC) who had listed it as a cut block until this year. After 10 years of protests, media campaigns, environmental inventorying, and public presentations, the summer of 2018 saw an archaeological exploration of the isthmus, which identified several sites with Indigenous artifacts and allowed the area to be protected under the Ontario Heritage Act in 2019. The most recent Forest Management Plan for 2021-2031 does not include any plans to harvest timber or build roads through the Farabout Peninsula; however, management responsibility is still allocated to the DFMC by the OMNRF.

In parallel to movements of conflict, there is a growing prevalence of collaboration within the region. In 2001, GCT3 and the City of Kenora created a partnership called the Common Land, Common Ground initiative with the intention for First Nations and municipal governments to constructively work together on lands of mutual concern. “Common ground” has been adopted in this case as a conceptual space for shared governance to highlight the broader recognition of cross-cultural collaboration in land management for the region (Robson et al., 2013; Zurba, 2015). “Peace in the Woods” is another term to express the transition from direct conflict to collaboration within forestry in northwestern Ontario (Zurba, 2019).

1.4 Thesis Overview

This thesis has six chapters. This chapter has set the foundation for the problems to be addressed by this research and it has given an overview of the research context. Chapter 2 will provide a literature review that grounds this research in theory and practice. Chapter 3 will then identify the methods for implementing the research. Chapter 4 presents the results of my analysis by first documenting the legislative governance structure of land decision-making on Eagle Lake First Nation's TLUA, then expanding into a normative assessment to understand the role of conflict in forest decision-making. Chapter 5 presents a discussion of results by weaving the legislative assessment and normative governance assessment to identify several barriers and opportunities that are faced when engaging in arrangements of power-sharing in land decision-making. Chapter 6 concludes the thesis with a summary of the identified barriers and recommendations toward capacity building strategies aimed at reducing barriers to achieving greater equity in forest governance.

CHAPTER 2: KEY RESEARCH THEMES

2.1 Introduction

This chapter begins by exploring the legislative histories as they contextualize the land decision-making relationship between Indigenous peoples and settler-state governance. I will then examine theories of governance that underlie these relationships and provide context to understand collaborative land and resource governance. This is followed by an examination of the current thinking and directions of cross-cultural forestry with a focus on the more recent movements toward a *post-colonial* notion of forest governance. The chapter concludes by identifying some central concepts for equitable forest governing partnerships as well as some tools that can be used to facilitate these partnerships.

2.2 Note About History

Non-Indigenous accounts of history continue to dominate scholarship, and this is equally true for the histories of the relationships between Indigenous nations and settler-state nations. As such, these histories are constructed by whomever has the motivation and power to tell them. These histories are in need of a revision to incorporate the telling of diverse identities and accounts (Kurkiala, 2002). The Report of the Royal Commission on Aboriginal Peoples (1996a) states:

Underlying the western humanist intellectual tradition in the writing of history is a focus on human beings as the centrepiece of history, including the notion of the march of progress and the inevitability of societal evolution. This historical tradition is also secular and distinguishes what is scientific from what is religious

or spiritual, on the assumption that these are two different and separable aspects of the human experience. (pp. 37-38)

In light of this understanding, it is recognized that the recounting of history presented in the following section is only part of a much wider history. A history should reflect the identities of all those who participated, including that of the land itself (see Bawaka Country et al., 2016). Thus, the account of history painted in this section is a simplified understanding of the history of settler-state and Indigenous interactions as it has shaped land and resource governance.

2.3 Key Influences on Indigenous Decision-Making in Land and Resource Governance

The core understandings of this research are the systematic exclusion of Indigenous peoples from land decision-making and the Indigenous exclusion from the benefits of resource extraction. McGregor (2011) argues that this is not a random side effect but a result of deliberate decisions from the first settlers and interests for resource development and extraction. To understand the current relationships and barriers faced in land decision-making, the legislative histories behind these relationships must be unpacked.

In Canada, the relationships between resource extraction governance and Indigenous people have been built on colonial legacies of treaty agreements, and the misunderstandings on the intent of such agreements. Initially the relationships between Indigenous peoples and early settlers were based on the need for military alliances and cooperaton in the fur trade (Daughtry, 1986; RCAP 1996a). The rise of the capitalist economy saw the beginning of assimilation policies to define the nature of these

relationships, beginning with the treaty-making process which established the formalized relationship between Indigenous peoples and settlers. *The Royal Proclamation of 1763* acted as the constitutional structure for the negotiation of these treaties by allocating sole responsibility to the Crown to negotiate land settlements with Indigenous peoples. While the proclamation recognized Indigenous peoples as sovereign nations, it also perceived the ownership of North America as issued to King George III. There was no consensus on the meaning of the treaties from the very beginning (Egan, 2012; Ermine, 2007; Usher, 2003). Egan (2012) explains that there were different ways of understanding the treaties and they were simply a tool to further colonization efforts or a means to peaceful co-existence.

Most Treaties were situated in a formalized space between the newly established Canadian government and the pre-existing Indigenous nations. However, there were pre-confederation treaties including the Peace and Friendship Treaties (1700's) Robinson Treaties (1850) and the various purchase agreements through southern Ontario, which became a model of negotiation for the numbered treaties including Treaty #3. The treaty processes were upheld through *the Constitution Act (1867)* and further institutionalized by *the Indian Act (1876)*, which set out measures to regulate the lives of registered Indigenous peoples. This act was responsible for zoning reserve areas and displacing Indigenous peoples into small land parcels with limited resources and authority. These land parcels are affirmed as federal lands held in trust for Indigenous peoples where the authority remained with the federal Crown and decisions on these land must be approved by the Minister of Indian Affairs. Coates & Holroyd (2019) write that *the Indian Act (1876)* was deliberately paternalistic; they are supported by many others in their

criticisms (see also Castleden et al., 2012; Rakshit et al., 2018; Robitaille et al., 2017).

The Indian Act(1876) has been reformed several times since its creation, shifting the terms and legislation around reserve land among the various other reforms. Thus, while the *Constitution Act (1867)* allocates federal jurisdiction over “Indians and Lands reserved for Indians,” (s. 91(24)), provincial governments are allocated sole jurisdiction for Crown lands and resources within provincial boundaries (s. 92). This creates a jurisdictional tangle when addressing Indigenous rights in land governance.

St. Catharine’s Milling and Lumber Company v The Queen (1888) marks the earliest decision of the Crown’s interpretation of the treaty relationship in Treaty #3. After the St. Catharine’s Milling company cut around Wabigoon Lake from a federally approved license, the Ontario government took issue over jurisdictional responsibility and filed a lawsuit. During the decision period, First Nation perspectives were left out. The decision asserts that the provincial Crown alone had jurisdictional responsibility for the land and resources. The decision supports that the treaties did not create a nation-to-nation partnership with shared benefit from lands and resources.

Section 35 of *The Constitution Act (1867)* marks another important shift toward protecting and enhancing the rights of Indigenous peoples of Canada. An amendment was made in 1982 establishing legislated protection of Aboriginal and Treaty rights. Prior to the amendment, the Canadian Parliament held the authority to extinguish Aboriginal title or rights whether they were established at a common law, by treaty, or legislatively (Stephenson, 2011). This does not define the notion of ‘rights’, rather Section 35 affords the existing definitions constitutional recognition and protection from any future legislative actions. Rights continue to be conceptualized differently, and this is often at

the forefront of resource-management disputes. Mcleod et al. (2015) note that Indigenous rights are often defined by non-Indigenous peoples within planning and policy contexts where Indigenous philosophy and worldview are not taken into account or understood and thus fail to conceptualize specific definitions of nation rights.

To this day, “treaty and Aboriginal rights are often ignored, abrogated or subject to court challenge to force a government to honor them” (Booth & Skelton, 2011b, p.688). The rulings of the federal and provincial Supreme Courts create the framework for which Indigenous title and rights are recognized in Crown forest management and legislation by setting the rules regarding how Indigenous rights, title and the duty to consult are interpreted and by affirming the Crown’s fiduciary duty. *Calder v. Attorney-General of British Columbia (1973)* was the first case to formally acknowledge the continued existence of Indigenous title, ruling that Indigenous title did in fact exist at the inauguration of the Royal Proclamation in 1763. The decision then paved the way for the Comprehensive Claims Process to negotiate modern treaties. Thereafter, *Guerin v. The Queen (1984)* established the Crown’s fiduciary duty to protect Aboriginal title and ruled that title should be viewed as a “legal right to occupy and possess certain lands.” A series of cases following set “tests” to determine whether title and right exists, and continue to exist, and to determine the justification for infringement upon those rights. It was not until 2004 in *Haida Nation v. British Columbia (Minister of Forests)* when the duty to consult established as an inescapable governmental duty at both orders of government. This case also ruled this as a duty that cannot be delegated to third parties, thereby affirming fiduciary duty of the provincial and federal governments to consult and accommodate. Then in 2005 through the rulings of *Mikisew Cree First*

Nation v. Canada (Minister of Canadian Heritage), the duty to consult was further defined by clarifying that while governments do have the power to take up lands that infringe on treaty rights, the infringement of treaty rights imposes a duty to meaningfully consult.

Despite the history of assimilation policies and the overstepping of Treaty rights, Indigenous peoples continue to resist exploitation and assert their inherent rights over traditional territories. The *Charlottetown Accord* of 1992 was an attempt to nationally acknowledge Indigenous self-governance prior to colonization, and to recognize the continued right to self-government. Although this accord was voted against, it was the first time Indigenous self-governance was brought to the national stage and stands an important demonstration of authority from Indigenous leaders, and an acceptance of such authority from the Canadian politicians involved (Stephenson, 2011; Zurba, 2014).

Specifically in Ontario, there have been ongoing shifts in forest policy and legislation linked to a recession in the forest industry that have opening greater opportunities for collaboration within forest governance. Two main shifts have been essential in opening opportunities for greater Indigenous participation and authority. First, the Class Environmental Assessment for Timber Management on Crown Lands in Ontario introduced term and condition 77 in 1994. This marked a significant shift in forest policy as it mandated the need for the OMNRF to negotiate with Indigenous communities ways of equitable Indigenous participation in the benefits of timber management planning (Koven & Martel, 1995). The second shift was the *Tenure Modernization Act* of 2011. The impacts of the 2007-2008 recession, in combination with other forces, pushed forward a new structure of forest tenure under the *Tenure*

Modernization Act (2011). A document from the OMNRF (2021) explains that “forest tenure modernization is our long-term commitment to strengthening the current tenure system, while considering the interests of local communities, the forest industry, Indigenous communities and other stakeholders.” The Act allows expanded participation in forest decision-making by moving from the previous tenure system of Crown managed land with Crown agencies toward a more local model through newly established Local Forest Management Companies (LFMCs). Another model of tenure proposed around the same time was the movement toward Enhanced Forest Sustainability Licenses (eSFL). The eSFL’s are private companies created by groups of mills, harvesters, local communities and Indigenous communities which follows a similar model as an SFL yet is designed to be more flexible to address local interests (OMNRF, 2021a). These shifts in tenure models open new opportunities for local ownership, increased public participation, and increased roles for Indigenous peoples.

Within northern Ontario there are two developing models of LFMC’s engaging in forms of collaborative forest management: the Temagami Local Forest Management Corporation, approved in 2020, and the Nawiinginokiima Forest Management Corporation, established in 2012. New management arrangements are also growing under the creation of eSFLs such as the Obishikokaang Resources Corporation, which is an Indigenous owned and operated corporation holding the eSFL for the Lac Seul Forest, the first ESFL in Ontario that came into effect in 2018. These partnerships are examples of shared-ownership forest management companies demonstrating different models of collaborative Indigenous and non-Indigenous forest management strategies over land of mutual concern.

With the legislative framework of relationship agreements, the majority of Indigenous inclusion in land decision governance is in the form of legislated consultation (Wyatt et al., 2019). However, major shifts are taking place to better acknowledge Indigenous rights to decision-making power. In other words, the normative framework of governing is shifting through changes in the norms and principles decision-makers draw from when making governing choices. Kooiman (2003) sees this normative level of governance as including effectiveness, legitimacy or moral rationality of ones' choices (Kooiman, 2003). One main influence on these normative shifts was the release of the Royal Commission on Aboriginal Peoples (RCAP) in 1996. The report was released as a result of Indigenous and non-Indigenous commissioner investigation of the question: "what are the foundations of a fair and honourable relationship between the Aboriginal and non-Aboriginal people of Canada?" (RCAP, 1996a). The report recommends new approaches to land and resources to increase decision-making and equity. The five volumes of the RCAP Final Report explores the relationship between Indigenous peoples and settlers, through four, non-segregated stages (Table 1). The first stage is separate worlds prior to contact, followed by a phase of conflict and cooperation that occurred nation-to-nation given the force of the treaties. The third stage is categorized by assimilation policies and legislation accompanying the ideology of European superiority. Finally, we are now entering into a state of renewal and renegotiation marked by shifting policies and, most significantly, the recognition of existing treaty rights in *the Constitution Act, 1982*. Although an admittedly simplistic vision of reality, thinking of the relationships in these four stages is useful to conceptualize the significance of

historical relationships and interrelationships when we talk about collaboration and power-sharing.

Table 1.

Stages of relationships between settler-state government and Indigenous peoples (RCAP, 1996a)

1) Separate Worlds	Prior to first contact, Aboriginal and non-Aboriginal people lived on separate continents developing in isolation from one another.
2) Contact and cooperation	The period following first contact saw the first negotiations of how settlers and Aboriginal peoples would work together. This period saw nation-nation relations where each was regarded as distinct and autonomous, left to their own internal affairs but co-operating in areas of mutual interest.
3) Displacement and Assimilation	Power was being enforced by settlers and their governments. This period saw forced relocation of Indigenous peoples and increased assimilation tactics such as residential schools.
4) Negotiation and Renewal	A transition to present relationships characterized by a critical review of Indigenous/settler relationships.

Other national and international movements are added into the shifting normative framework including the Truth and Reconciliation Commission of Canada (TRCC), developed in 2008 as an acknowledgement of the impacts of residential schools on Indigenous peoples and a space for survivors to tell their stories. Within a similar timeframe, The United Nations’ Declaration on the Rights of Indigenous Peoples (UNDRIP), was adopted by the United Nations General Assembly in 2007 and, after some dispute, was endorsed by Canada in 2016 after a change in federal leadership. Through the work of UNDRIP, the use of free prior and informed consent (FPIC) was recognized as a right specific to Indigenous peoples to establish early and informed

consent. Recently, in December 2020, the Canadian government introduced new legislation, Bill C-15, with the intention of implementing this declaration². A recent article released by the Department of Justice explains:

If passed by Parliament, Bill C-15 would require the Government of Canada, in consultation and cooperation with Indigenous peoples, to take all measures necessary to ensure that the laws of Canada are consistent with the rights of Indigenous peoples set out in the Declaration, as well as to develop an action plan to achieve its objectives. (Department of Justice Canada, 2020)

In other words, this act would affirm the principles of UNDRIP to apply only in federal law but not in provincial law. Although transformative toward normative shifts, this Bill has also been subject to criticism. By focusing on co-operation and consultation, it is noted that this Bill ultimately fails to address self-determination and power-sharing (Forester, 2020; Turner, 2021).

As governance structures shift, and international pressures supporting rights in land decision-making increase, those reforming policies are under more and more pressure to consider our complex histories. Yet, the lasting impacts and continued efforts of major legislative changes continue to contextualize the current relationships between Indigenous people and settler state governance, and thus frame how influence can be exercised in decision-making in land governance.

² This legislation has been passed June, 2021. The implications of its passing are still unclear.

2.4 Governance

2.4.1 *Governance as Interactions*

Prior to explaining the existing arrangements of power-sharing in forest governance, it is important to describe how this research approaches governance so that we can explore how governing actors can better position themselves to make decisions. The governance literature is vast, where no one central definition is agreed to. Within this literature there is an important distinction between government and governance. Government is understood as the formal institutions of the state, with the ability to make decisions and enforce them (Stoker, 1998). Power relationships in traditional state-based arrangements are thus thought of as hierarchical, or exercised in a ‘command and control’ fashion (Griffin, 2012). Rhodes (1996) explains the transition from government to governance as signifying a change in the meaning of government “to a new process of governing; or a changed condition of ordered rule; or the new method by which society is governed” (p. 652-653). This view signifies a shift from centralized power to power through wider varieties of arrangements including market, civil society, and state actors (Griffin, 2012; Kooiman, 2003). Most people agree that governance is about a variety of actors making and acting upon decisions or directions. This research understands governance through the broad definition put forward by Kooiman (2003, p. 4), who first explains that governing is “the totality of interactions, in which public as well as private actors participate, aimed at solving societal problems or creating societal opportunities” . Kooiman (2003) then notes that governance refers to the entirety of that governing system.

Kooiman understands structures as the material, social, and cultural contexts in which interactions take place. When thinking of governance in terms of interactions, governance can then be understood as a process of human relationships reflective of the underlying conditions of actors (Berkes, 2009). Whereas actors are empowered by their context to make their best available decisions, they are also either limited or enabled by their structures (Kooiman 2003, Kooiman et al, 2008). Within this understanding of governance, decisions are underpinned by norms, principles, and values (Kooiman & Jentoft, 2009) as they build decision-makers' worldview and approaches to problem identification and thus problem solving. Kooiman (2003) uses a three-order explanation to lay out how these structural (material, social and cultural contexts) and normative (norm, principle, and value) aspects of governance work together. First-order governance is the problem solving and the creation of opportunities for governance, second-order governance refers to the individual characteristics and maintenance of institutions in governance, and third-order governance is the interactive and social-political framework driven by norms and values intrinsic to governance or the "governance of governance" (Kooiman & Jentoft, 2009).

Understanding governance based on these orders is important for understanding how shifts within one level of governance may affect another level. It is also useful to conceptualize the significance of relationships as the starting point to forecast successes or failures of collaborative interactions. As Kooiman (2003. P. 8) understands, "Governing is, after all, interaction in some way or another." Natcher et al. (2005) agree with this understanding, adding that an understanding of the underlying cultural conditions, such as values and beliefs of the participants, is a critical starting point.

2.4.2 Substantive Decision-Making in Governance

An important distinction between governance and management must be made when approaching substantive decision-making. Whereas governance situates at the decision-making level for goals and directions in land decision-making, management is the result of governing decisions, whereby resources are allocated to the day-to-day managing duties. It is at the level of governance that substantive decisions guide the development of management frameworks. Thus, it is at the governance level in which cross-cultural forest governance will be examined.

Three terms are often used when thinking about substantive decision-making in governance: devolution, collaboration and power-sharing. These terms are rarely used independently of one another in the academic literature on governance; however, they have different connotations that are important to decipher in order to remove assumptions. Devolution can be viewed simply as the ceding of power to local levels of authority in resource and land governance (Berkes, 2010). As previously explained, governing actors operate within structures (Kooiman, 2003) so devolution can be thought of as the process of legislative and political structural reform. In this way, devolution acts as the container for which power is restructured and within which all other interactions take place. Collaboration can be understood as a process emphasized by devolution that highlights the processes of interactions among actors (Berkes, 2010). Thomson et al. (2007, p. 25) understand collaboration in governance as:

a process in which autonomous or semi- autonomous actors interact through formal and informal negotiation, jointly creating rules and structures governing their relationships and ways to act or decide on the issues that brought them

together; it is a process involving shared norms and mutually beneficial interactions.

This definition highlights collaboration as the interactions between actors. Where devolution sets the stage for collaboration, collaboration can also facilitate devolution. Collaboration assumes some level of power-sharing arrangements, as it involves some degree of shared responsibility in decision-making (Ran & Qi, 2018). However, an important distinction is that collaboration does not describe the level to which power is to be shared, nor account for existing power imbalances. This is to say that power sharing in collaboration can take the form of equal decision-making powers; however, it can also take the form of consultation which does not involve the party being consulted with in any substantive decision-making. Collaboration is thus understood as the process through which power-sharing and substantive decisions are realized.

Power sharing is required by equitable collaboration, but power is also created when it is successful (Goetze, 2005). There are many levels of power-sharing in collaborative resource governance, and there is a growing focus on specific arrangements and levels of power-sharing in collaborative governance research. This research uses substantive decision-making to assess and understand power-sharing in collaborative governance, rather than defining the structural boundaries of power-sharing. Substantive decision-making here refers to the ability of actors to make decisions toward substantive actions aimed at meaningful outcomes (Zurba et al., 2016). As such, decision-making is a part of the collaborative process, which is contained in the structure of devolution. In governance, decision-making is backed by norms, principles, and values as they back how decision-makers think and understand situations (Kooiman & Jentoft, 2009).

Therefore, it is important to understand the starting point of normative values in governing interactions to address strategies of 'equitable' decision-making in collaboration.

In governance theory, power often manifests as resources, or held capacity, that exist in structures of knowledge or technologies for governing (Griffin, 2012; Stoker, 1998). Power is difficult to identify, track and analyze as it is often invisible and working in interconnected ways. Nor is there agreement on any specific definition of power. An influential definition of power from Max Weber explains that power is "the probability that one actor within a social relationship will be in a position to carry out his own will despite resistance, regardless of the basis on which this probability rests" (Weber 1978 [1922], p. 53). Viewing power through this definition places emphasis on relationships between actors. Jentoft (2007) goes on to explain that power can be used both negatively and positively, as both a constructive force, but also as a disruptive element. Power can thus be thought of in terms of interplay between interests, actors and institutions through mediated relationships, rather than only in resources themselves. Griffin (2012) contends that what matters when thinking of power in governance is ways actors use resources and capacities to negotiate political spaces. To account for the subtle and fluid ways in which power moves within governance, this research approaches power as relational, which is exercised and played out in social relations at various scales created in the process of mobilizing resources across networks. Actors within these social relations operate within structures and are thus constrained and empowered by the geographies and contexts within which governing occurs (Kooiman, 2003; Kooiman et al., 2008).

Ansell & Gash (2007) explain that collaborative governance thinking is quite disorganized, reflecting the way collaboration in governance has arisen from local experiments as a result of government failures. Collaborative governance is generally used as an umbrella term to refer to situations of shared authority, or shared powers, between public and government in some way or another (Armitage et al., 2007; Ran & Qi, 2018). Co-management, interactive governance, and community-based management are some of the terms used in the literature to refer to tools of power-sharing in land governance. This wide range of thinking and approaches to collaboration can render terms meaningless if different assumptions are held by the parties involved (Thomson et al., 2007). As such, there is also a continuum of possible collaborative arrangements in the degree of power sharing outcomes (Armitage et al., 2007).

Griffin (2012, p. 214) cautions that discourses about governance and collaborative governance “can appear to represent an idealized pluralism where governing is shared among a diversity of actors and within which there is a dispersal of power to the point of its neutrality.” This view, however, can discount existing disparities within arrangements, as these new governing arrangements are built upon existing structures of exclusion, conflict and inequality. Jentoft (2007) agrees to say that collaboration in governance does not remove these pre-existing conflicts or power-relations. However, collaboration does re-shape these interactions into a new structure that diffuses the vulnerability of each participant to the power of the others. Thus, before power-sharing and collaboration, there is a necessary stage of negotiation between parties to determine what new arrangements might look like to support actors’ substantive decision-making.

2.5 Cross-Cultural Collaboration in Forest Governance

In Canada, most Indigenous communities and their traditional territories are overlapped by commercial forest management units (NAFA, 2003). As a result, Indigenous Peoples have a keen interest in asserting their rights in the management and economic utilization of these forests. Indigenous involvement in forestry has significantly increased over the last three decades through both formal and informal partnerships (Fortier et al., 2013) and is now recognized as a central concept of sustainable forest management. Most often these partnerships have arisen from government programs or as a result of legal actions (Bullock et al., 2020).

Devolution of resource governance is a relatively new direction, taking shape over the last three decades. Berkes (2010) attributes the rise of this devolution to two factors. First is the recognition of citizen rights to effect decision-making that affects their wellbeing. Second is the recognition of complexity and uncertainty, where management of complex dynamics of resource systems need interdisciplinary approaches and knowledges. Davidson-Hunt et al. (2013) agree, explaining that adaptations to environmental change cannot occur in isolation but require complex interactions among knowledge systems. Successful collaboration also has the benefit of increasing future successes of collaboration as the collaborative process itself acts in a highly iterative and reinforcing way (Ansell & Gash, 2007).

It is important to note that Indigenous nations, and Indigenous peoples, are diverse across Canada and the world. Given these regional differences, there will be significant differences in capacities and aspirations for land decision-making; thus, there is no single formula for collaborative forest governance (Artelle et al., 2019). In response

to changing legislative frameworks creating new opportunities of cross-cultural collaboration in forestry as well as the diversity of aspirations among Indigenous communities, there is a range of mechanisms being employed to account for the varied interests among different groups (Wyatt et al., 2019). The diversity in mechanisms offers a range of power-sharing in decision-making and benefit distributions (Fortier et al., 2013; Wyatt et al., 2013).

As a response to the vast array of collaborative arrangements, Wyatt et al. (2013) developed a typology to categorize the different approaches to collaboration between and among Indigenous peoples and government and industry actors in Canadian forestry. This typology sets out these approaches in five main categories: i) treaties, agreements, and MOUs; ii) management and planning; iii) influence on decision-making; iv) forest tenures; and v) economic roles. These arrangements of collaboration, although non-extensive and ever-growing, offer a way to understand the variety of ways forestry can occur *with* Indigenous partners rather than through historical models of centralized government decision-makers. Fortier et al. (2013) note that, more often, communities who participate in collaborative arrangements are linked to more than one type. Depending on the interpretations of collaboration, arrangements can take on a wide range of power-sharing, from simply informing participants, to fully shared decision-making (Bullock, 2011). In this framework, it is generally understood that mechanisms concerning information sharing, processes of consent, or economic roles offer the lowest levels of influence. These mechanisms, however, also generally require lower amounts of capacities from communities, government and industry partners. Processes such as delegated management authority, Indigenous controlled lands, and Indigenous land use

planning offer a higher degree of influence, yet often require higher levels of capacities (Ansell & Gash, 2007; Bullock et al., 2020).

2.6 Barriers to Equitable Power Sharing in Forest Governance Arrangements

Barriers that prevent substantive decision-making in land governance for Indigenous peoples often result from structural injustices, rationalized through a socio-economic lens (Zurba, 2014). Within collaborative arrangements, there are power and resource imbalances between collaborators. Furthermore, entering into these types of arrangements requires certain levels of organizational infrastructure, such as appropriate representation in collaboration, technical expertise, time, and energy (Ansell & Gash, 2007). Indigenous communities are often burdened with structural capacity limitations that act as barriers to receiving benefits from resource development and participating in collaborations on their desired terms (Stevenson & Perreault, 2008). For example, First Nation band offices are often overburdened with managing all aspects of community sectors, yet also act as main points of contact for resource governing activities, and thus are often faced with over-extended leadership and lack of technical support staff (Robitaille et al., 2017; Zurba, 2014). Diduck and Sinclair (2002) also note that, alongside the lack of institutional capacity, involuntary complexity, process deficiencies, and alienating dominant discourses, communities face common structural barriers in their ability to participate in processes of collaboration with government or industry decision-makers. Thus, although collaboration can work to build capacities, it also places a burden on community capacities, requiring certain capacities to facilitate. These additional demands can further alienate partners if capacity deficits are not addressed.

When thinking of barriers through Kooiman's (2003; Kooiman et al., 2008) orders of governance, these types of structural barriers exist in the first and second order of governance. Barriers that exist within the third order of governance define the frameworks for these structural barriers by defining the meta-values which guide the structural decision-making process (Kooiman & Jentoft, 2009). For example, most legislation involving forest land decision-making stems from Western values, and thus privilege this worldview while simultaneously excluding and delegitimizing Indigenous ways of knowing (Brock, 2019). Often Indigenous and industrial forestry partners hold different assumptions and expectations of the process (Ayers et al., 2017; Bullock, 2012), and processes are marked by historical mistrust which is perpetuated by inadequate structures to support appropriate Indigenous inclusion (Mabee & Hoberg, 2006).

While actions in land governance can provide a space to work toward equity, it can also be a space marked with challenges. It is clear that conflict is an inherent part of this process (Berkes, 2009) yet challenges remain for communities, governments and institutions in navigating conflict while establishing and managing collaborative forest governing arrangements. Evidently, cross-cultural collaborations in forest governance activities are often difficult to implement and equitable power sharing is not a simple process. Processes of collaboration between Indigenous and provincial forest managers can often involve different levels of power (Stevenson & Perreault, 2008), different interests (Bullock, 2012), and are set in the context of specific local policy implications (Fortier et al., 2013). Despite general understanding and legislative acknowledgement that forest governance without Indigenous participation is no longer acceptable, it is not enough for collaborative opportunities to exist to ensure substantive participation. There

must be consideration for the structural facilitators within the governance system that inhibit equitable participation. This consideration needs to include an examination of the underlying values and principles that inform these governance frameworks.

2.7 Post-Colonial Forestry: Spaces of Engagement

Within the developing modern Indigenous-state collaborative forest governing agreements, the notion of *post-colonial* forestry is arising to recognize Indigenous self-determination in forest land decision-making (Diver, 2016). The concept of post-colonial forestry does not imply that we can enter a space free from colonialism; however, the term recognizes that all collaboration is moving forward in contexts shaped by the legacies of colonialism, and thus asks for “an engagement with, and contestation of, colonialism’s discourses, power structures, and social hierarchies” (Gilbert & Joanne, 1996, p. 2).

The idea of post-colonial forestry can be situated within the RCAP’s fourth stage of Indigenous-settler relationships, “Negotiation and Renewal”, where nations enter new negotiations of relationships based on the recognition and continued learning of complex histories. Approaching land and resource governance through this lens, attention is drawn to the responsibilities and roles of both settler states and Indigenous nations in navigating colonial legacies.

Whereas Tindall et al. (2013) speak of Indigenous-state forest governing collaborations on a scale of control that moves from “assimilation” to “shared power”, it is noted that some Indigenous communities aspire to continue to “self-determination” in land decision-making (Pun, 2016). Power-sharing agreements may be desired; however, there are important considerations when Indigenous nations enter into arrangements that

are not of their own making (Bullock et al., 2020). There is growing hesitancy and contention with collaborative governance and collaborative management, as they are often lined with colonial assumptions and fail to account for Indigenous rights (Diver, 2016). Although the potential positive effects of collaborative agreements are many, negative effects have been cited when power-sharing arrangements do not account for equity concerns, or simply result in extensions of state control over communities and land (Bixler, 2014). The strengths and limitations of approaches to engagement must be assessed to identify whether approaches leverage self-determination or simply strengthen the forces of colonization (Bullock et al., 2020).

Literature on collaboration has been thus far dominated by studies that situate Indigenous partners seeking more effective engagement in land decision-making as stakeholders, referencing the need for empowerment and capacity to participate in power-sharing agreements (Wyatt et al., 2019). As such, engagement is framed in terms of shared authority and decision-making rather than in terms of self-determination. When Indigenous peoples are situated as another ‘stakeholder’, there is a failure to recognize Indigenous communities as holding unique historical, legal and cultural positions in land decision-making (Smith, 2013). Settler-state governments have a historical reputation of imposing artificial boundaries, both temporal and spatial on Indigenous peoples. Bruyneel’s (2007) concept of the “third space of sovereignty” explores the idea that Indigenous communities work against and across these spatial and temporal boundaries, working within state governments to demand rights as well as beyond state governments to challenge the colonial rule over land and rights. Bruyneel (2007, p. xvii) explains:

This resistance engenders what I call a “third space of sovereignty” that resides neither simply inside nor outside the American political system but rather exists on the very boundaries, exposing both the practices and contingencies of American colonial rule.

This concept recognizes that all arrangements of Indigenous engagement in institutionalized forestry, whether power-sharing agreements, or Indigenous-led, operate in the frame of colonization and imposed political constraint. It also highlights the assertion that Indigenous communities have authority to strategize on how and when to operate within these constraints (Diver, 2016) as well as to refuse the false choices set out by the settler state (Bruyneel, 2007). Framing collaborative actions within a space shared by Indigenous peoples and settler-state governance, and a space grounded in colonial histories, requires a different approach to collaboration. It highlights the vibrancy of each nation and calls for a space of relationship in which responsibilities and roles should be defined in the context of existing agreements such as treaties.

Understanding the directions of forestry relationships through the notion of *post-colonial forestry* is important for three reasons. First, this approach calls for the development of an expanded typology to include mechanisms that can be used by Indigenous communities outside of the boundaries of power-sharing agreements, highlighting that there are more mechanisms for Indigenous peoples to choose from and strategize their terms of engagement. The approach also highlights collaboration as growing upon colonial contexts and within treaty agreements, thus drawing into the centre of attention the responsibilities and roles parties play within this context. Finally, post-colonial forestry recognizes that for political autonomy to be achieved, there is a

necessary degree of meaningful change that must happen in settler-state governance regimes over land and resources (Bruyneel, 2007).

As with the RCAP's fourth stage of relationships between settler-state government and Indigenous peoples, reconciliation is a process of negotiation and renewal of relationships. It is well understood that Indigenous peoples, who have resided and cared for the land long before the arrival of settler-governments, hold unique relationships with the territories for which they care, and thus are cared for by those territorial lands in return. Egan (2012) notes that more fully recognizing land and resource rights across Indigenous traditional territories in a way that recognizes more than just the economic flow of resources is a needed. The interactions surrounding land and resource governance can thus work to further divide parties, yet it can also create the needed spaces for meaningful relationships where conflict and differences can be continuously be reconciled (Zurba, 2014). Facilitating processes of reconciliation is not simple and, until there is reconciliation between values that undermine the resource-governance systems, Indigenous peoples will continue to face barriers to engage meaningfully with forest-land governance (Booth & Skelton, 2011a).

2.8 Central Concepts to Equitable Collaborations

Although there is no set format for arrangements of power-sharing, the collaborative environmental governance and cultural safety literature offers some central concepts and tools to support cross-cultural collaborative governance. These concepts do not act as a prescriptive framework, nor do they constitute an exhaustive list. The following synthesizes central concepts from the relevant literature that support equitable collaborative forest land governance and provides an overview of some of the central

tools used by communities, government and industry to support new relationships in land governance.

2.8.1 Nation-to-Nation Relationships

Collaboration is not a given outcome but one tool in the puzzle toward equitable power-sharing and cross-collaboration in forest governance (Plummer & FitzGibbon, 2007; Natcher et al., 2005). Equitable collaborations should be founded in relationships of trust, respect and reciprocity (Zurba, 2014). Expanding on this, Bruyneel's (2007) concept of *the third space of sovereignty* highlights the need for nations to recognize each other as legitimate authorities (Phare et al., 2017). The concept of a nation-to-nation relationship is one committed to by the current federal Liberal government under Justin Trudeau's commitments who have stated they are committed to "a renewed, nation-to-nation, government-to-government, and Inuit-Crown relationship based on recognition of rights, respect, co-operation, and partnership as the foundation for transformative change" (Government of Canada, 2018 p.3). However, the political recognition of nation-to-nation relationships regarding environmental governance is often criticized to be words without action. It is commonly cited that the environmental governance models themselves need adaptation to increase Indigenous participation (Bowie, 2013; Robitaille et al., 2017). Also emphasized is the recognition and collective effort toward building the significant capacities required for self-governance (Bowie, 2013; Robitaille et al., 2017).

2.8.2 Knowledge Co-existence and Co-Production

From years of lived experience, Indigenous peoples carry unique knowledge about the land, known as Traditional-Knowledge (TK). TK is a distinctive knowledge

system which is often thought of as something that cannot be delegated to other people than the Knowledge Holders (Davidson-hunt, 2006). Individual knowledge holders thus hold special roles within forest governance (Davidson-hunt, 2006; Robitaille et al., 2017). Stevenson (2006) draw attention to the analogy of the Two-Row Wampum Belt approach to collaboration whereas Indigenous peoples should not be expected adopt unfamiliar languages, nor modify their ways of knowing. This approach offers a way to view the co-existence of Indigenous ways of knowing and scientific knowledge as a base for environmental decision-making.

Through analyzing learning that occurred in the context of a First Nation-industry partnership in in northwestern Ontario, Zurba et al., (2021) present a Two-Row Wampum framework of learning in practice. This framework parallels culturally informed learning, alongside government- and management-informed learning. Through exploring this framework, Zurba et al., (2021) identify the catalytic power of culturally-based learning to inform people's behavior and their frames of reference. The power of a Two-Row Wampum approach supports the needed social, cultural and structural changes to recognize a nation-to-nation relationship.

2.8.3 Capacity Recognition and Capacity Building

It is recognized that there is an unequal burden placed on Indigenous communities in collaborative arrangements, which can result in the collaborative governing process being manipulated by its strongest supported actors (Ansell & Gash, 2007; Kusel, 2001; Robitaille et al., 2017). Given this, supportive capacities such as financial compensation to sit on planning boards, or for equipment investment, should be made a priority to 'level the playing field' (Zurba, 2014). Capacity building activities must be rooted in the

recognition that capacity already exists within Indigenous communities in order to support, enhance and mobilize community-based strategies, rather than assume capacities need to be built to meet the needs of existing systems. Stevenson & Perreault (2008) refer to this assumption that Indigenous peoples must build capacities to participate in existing economic, technical, social and political relationships as the ‘capacity deficit’ model. It is equally important to recognize that industry and governments must also examine their needs for capacities in order to create new conditions that allow for space within institutions for Indigenous knowledge systems, values and interests (Stevenson & Perreault, 2008).

2.8.4 Institutional Adaptation and Building Adaptive Capacity

Collaboration is a non-linear and iterative process (Ansell & Gash, 2007). Given the complexity of navigating multiple value systems, successful collaborative partnerships often require more time, more resources, and more institutional adaptability to allow for such growth (Goetze, 2005; Gruber, 2010; Robitaille et al., 2017). Many Indigenous communities contend that existing forest management processes have limited scope to protect the wide range of community values and objectives in a culturally relevant way (Robitaille et al. 2017). As such, there is a need to expand these processes to recognize the relationships of Indigenous peoples and the land. Social-ecological resilience scholars often refer to adaptation as the development of characteristics (behavioral or genetic) that allow systems to respond and adapt to changing social and ecological conditions (Olsson et al, 2004; Folke et al. 2007). Adaptive capacity can be thought of as the preconditions that enable such adaptation, including social and physical capital assets and the ability to mobilize these assets in response to change (Nelson et al.

2007). Institutional adaptation highlights the responsibilities of existing settler governance structures (such as forest management planning processes) to develop appropriate capacities to respond to societal conditions, rather than simply burdening Indigenous groups with building their capacities to work within these systems.

2.8.5 Representative Assessments of Success and Accountability

The collaborative development of indicators and assessments to better facilitate the inclusion of all parties' values and worldviews can increase the ability to measure accountability (Robitaille et al., 2017). There are many different assessments of engagement used to make sense of the variety of ways parties may collaborate, such as the International Association for Public Participation's (2018) Spectrum of Public Engagement. Also available are generic criteria and indicator frameworks related specifically to sustainable forest management, such as the Canadian Council of Forest Ministers (2005) (CCFM) Criteria and Indicators of Sustainable Forest Management in Canada. While the CCFM Criteria and Indicators do address the need for equitable participation in forest planning and the need for greater respect for Traditional Knowledge, the generality of these frameworks often fail to address specific needs and values of many Indigenous communities (Robitaille et al., 2017; Wyatt, 2008). Needed is locally relevant assessments of success for both the outcomes of collaborations as well as the specific outcomes of management to support greater accountability on specified goals of communities. Zurba (2014) suggests parties may identify sets of responsibilities within collaborative frameworks prior to formal agreements to guide representative assessments of success. The enforcement, monitoring and response to the developed indicators require the social and technical capacity from both parties (Gruber, 2010).

2.8.6 Participation and Representation

In Canada, it is now well understood that collaboration must take place at all parts of the land decision-making process (Ansell & Gash, 2007; Mabee & Hoberg, 2006). However, in addition to incorporating mechanisms for participation, participation should be based on collective foundations of trust, reciprocity and respect (Zurba, 2014). Participation often occurs through a select representative from the community, which offers space for community elites but can fail to account for the community at large (Robitaille et al., 2017). Although some communities may agree to be represented by an elected official, others may wish greater inclusion and participation.

Within land and resource governance, youth and Elder knowledge hold unique and important positions (O’Flaherty et al., 2008; Zurba & Trimble, 2014). These voices are often not placed in central positions in land decision-making through settler-governance structures; however, they are often cited as critical perspectives in Indigenous ways of understanding land decision-making (Robitaille et al., 2017; Zurba & Trimble, 2014). Thus, following a collective definition of the purpose and vision of governing arrangements, it is critical to aligning the vision and purpose of the participation and engagement with the representation needs (Bullock et al., 2020).

2.9 Tools for Facilitating Equitable Partnerships

Alongside the growing body of literature that is identifying some key concepts that form the foundation of equitable partnerships, several notable tools are being developed through community-led work and by Indigenous experts, resource

practitioners, academics and other interested parties. Described below are several tools which can be implemented as supportive strategies.

2.9.1 Strong Leadership

The multi directional structure of nation-to-nation relations, would mean that leadership must be sustained through both nations while working across governance systems (Bullock et al. 2019). It is noted that strong leadership in collaborations is crucial when incentives to participate are low, there are unequal starting points of resources between actors systems (Bullock et al. 2019), and/or conflictual tensions are high (Ansell & Gash, 2007; Olsson et al., 2004). Leadership may be representatives within community or industry, but can also be found through a mediator or third party organization (Olsson et al., 2004; Zurba, 2014).

2.9.2 Spaces of Social Learning

Social learning is both a tool and a process necessary for equitable cross-cultural exchange and problem solving (Berkes, 2009). Social learning can be understood as a pillar for negotiating common objectives and visions as well as for building trust and mutual respect among parties (Zurba et al., 2012). The intentional creation of spaces of social learning can thus be positioned as a tool to facilitate cross cultural education, which is a key premise toward co-production and co-existence of knowledges in land and resource governance (Mabee & Hoberg, 2006). Bridging entities or the creation of new physical spaces and organizations are some strategies to support the social learning process.

2.9.3 Ethical Space of Engagement and Bridging Entities

Ethical space as Ermine (2007 pp.193) explains “is formed when two societies, with disparate worldviews, are poised to engage each other.” Ermine (2007) identified that this space exists between Indigenous and Western knowledge, but also between Indigenous law and Canadian legal structures. The framework of ethical space can be applied in collaborative efforts to create new spaces for equitable engagement where Indigenous and Western knowledge and worldviews are respected as equals (Ermine, 2007). The framework is referenced in situations of knowledge sharing, currently most referenced in regards to the development of Indigenous Protected and Conserved Areas (IPCAs) (The Indigenous Circle of Experts, 2018), and in health research (Nelson & Wilson, 2018; Schiff & Bull, 2014). Ethical space can be the physical creation of new spaces of engagement as well as the ideological creation of this space. In either regard, it highlights the importance of a neutral space between nations.

2.9.4 Decentralized Research

Bullock et al. (2018) note that, particularly in northern communities, there is often a geographical separation between research capacity and the research context in which knowledge and data emerge. In academia there has been a historical lack of inclusion of Indigenous knowledge, and Indigenous peoples have been positioned as research subjects rather than participants (Castleden et al., 2009; de Leeuw et al., 2012). A shift in these historical power structures toward working in a collaborative community-led fashion, where capacity building and knowledge distribution is emphasized, can support an Indigenous resurgence in land governance (Artelle et al., 2019; Bullock et al., 2019;

Gruber, 2010). In collaboration and community-led research, there is a focus on decentralized research, supported by committed long-term partnerships and long-term funding structures (Artelle et al., 2019; Davidson-Hunt et al., 2013), and a focus on operating in a collaborative and Indigenous-led framework where more attention is focused on Indigenous goals (Robitaille et al., 2017). The co-production of knowledge may offer capacity and technology development rooted in community priorities as well as advocacy and encouragement for governing collaborations that combine strengths and worldviews from Indigenous and Western ways of knowing (Artelle et al., 2019).

2.9.5 Multiple Approaches to Engagement

Most Indigenous communities engaged in forest governance undertake more than one type of arrangement (Fortier et al., 2013). For example, communities may engage in economic partnerships, forest planning boards, and harvesting operations simultaneously. With relationships and capacity building at the centre of building equitable partnerships, the use of multiple arrangements of engagement initiates multiple spaces for building relationships and building trust (Wyatt et al., 2019). Multiple engagement strategies also facilitate strategic advantages in leveraging community priorities; however, it also requires greater capacities and resources (Wyatt et al., 2019).

2.9.6 Capacity and Resource Sharing

Capacities are not often equal among collaborators (Ansell & Gash, 2007; Zurba, 2014). Capacity, in collaborative arrangements, can be thought of as the collective ability of a community to respond to external and internal stress as well as the ability to create and take advantage of opportunities to improve local wellbeing (Kusel, 2001). Beckley et

al. (2008) make the important distinction that capacity building must involve the mobilization of resources available to communities toward challenges or opportunities that face the community. Thus, capacities must be activated through mobilizing assets or they will remain foundational and not operate at their full potential (Donoghue & Sturtevant, 2007). This understanding highlights the need to examine opportunities for new capacities as well as existing capital assets within the community as they relate to community aspirations for forestry participation and seek mobilization strategies. The notion of resource sharing also highlights the use of regional networks to leverage and support resources across actors (Bullock et al., 2020). Regional networks can also facilitate advocacy for priorities of groups within regions, which minimizes redundancy and can offer strategic distribution of resources (Ayers et al., 2017).

CHAPTER 3: RESEARCH DESIGN AND METHODS

Any research project is shaped and influenced by a variety of factors including the assumptions of the researcher, the contextual factors of the study, and chosen methods of inquiry (Holmes, 2020; Martínez et al., 2020; Patton, 2002). In this section I intend to describe and justify the research design of this study by first providing an overview of my own positionality to this study, the paradigm in which this research is situated, the context of the research approach, and the methods of inquiry and analysis. By laying out the central elements forming this research design, it is my intention to have greater accountability, and transparency to my position as a researcher, and engagement with the study partners and participants.

3.1 Positionality and Worldview

I am a descendant of primarily Irish ancestry. My father's parents arrived from Northern Ireland to acquire farming land in Algonquin and Anishinabek territory. My mother's lineage acquired land in Saskatchewan on the homeland of the Métis. Both sides of my family continue their livelihoods through farming and ranching, stemming from this original land acquisition. In this way, I am a direct beneficiary of treaty agreements and the dispossession of Indigenous Nations from those lands. This is important to state as my economic and social position is greatly influenced by colonialist land policies, which continue to gain my family direct access to land and ensure our continued livelihood. It is also important as my upbringing is rooted in settler ideologies of interest in privatized land ownership and economized use of resources.

The majority of my youth was spent in a small town in the traditional territories of the Haudenosaunee and Anishinaabe peoples in what is now Ontario. In a town with few other youth, most of my informal learning experiences were shaped by time spent on my own in the forests, fields, and orchards. Through this time, I developed a strong sense of relationship with the land I grew up on. My interest in land led me to pursue an undergraduate degree focused on different types of community-based environmental topics, through which I first became aware of the diverse types of relationships, rights, and worldviews that exist between humans and land. It was over these years that I became aware of the dominance of the Western worldview in land management policies and practices. My worldview is deeply shaped by personal and formal relationships with Indigenous people who have shared stories of injustice related to land management practices. I continue my work from a place of reciprocity from these stories and continue to reflect on my responsibilities and role to learn and act in solidarity.

My capacity for self-reflection and awareness continues to grow with my changing conceptions of land and environmental management practices. However, it is (and will always be) a learning journey, where making mistakes, acknowledging the faults, and being uncomfortable are inevitable. This brings me to my engagement with this research as I continue to unlearn my own colonialist assumptions and learn my responsibility as a treaty person. My engagement with this research upholds what I believe to be a small part of my responsibilities as a treaty person to create space for upholding the original intentions of the treaties, to collaborate and work together toward shared futures (a rhetoric long dominated with Western ideas of what the future should

be). Through this collaborative research I am inspired to reflect further on both the interpersonal skills as well as the structural change needed to create shared futures.

3.2 Research Paradigm

A research paradigm, as Lather (1986) explains, is the conceptual lens through which the researcher's fundamental beliefs, principles, and thus interpretations of the world are understood. It is important to explore the research paradigm to situate how the research approach has been constructed. In meeting the objectives stated within this research partnership, the research approach operates through a pragmatic and constructionist (or interpretivist) frame. Social constructionism, as Guba & Lincoln (1994, p. 111) explain, "assumes multiple, apprehendable, and sometimes conflicting social realities that are the products of human intellects, but that may change as their constructors become more informed and sophisticated." Pragmatism also centres on the idea that there are multiple explanations of reality, yet pragmatism takes a stronger focus on utilization-focused criteria to assess the identified problem. As Patton (2002, p. 695) explains, "this means focusing the inquiry on informing action and decisions." In other words, this approach acknowledges the existence of multiple truths and realities, yet understands that some ways of understanding are more likely to meet our goals and needs (Kaushik & Walsh, 2019). These research paradigms guide the decision of this research to use participatory methods to allow the interpretation of the participants' experiences of reality to come forth. Drawing from a pragmatic frame situates this research as an extension of the problem put forth by Eagle Lake First Nation in their initiation of this research partnership.

3.3 The Collaborative Research Approach

As with collaborative governance, the idea of collaborative research is neither step by step nor a simple process. Collaborative research is used to describe the focus on collaboration within this research project, through research design and implementation. The collaborative approach used in this study is situated within a wide-ranging spectrum of community-based participatory research (CBPR). CBPR is increasingly recognized as a ‘best practice’ for engaging research with Indigenous communities in attempting to move away from power-laden research processes that have had historically intrusive effects on Indigenous communities (Castleden et al., 2012; Israel et al., 1998; de Leeuw et al., 2012). Castleden et al. (2012) identify CBPR not as a research method in and of itself but as a process through which decision-making and ownership is bi-directional between community and researcher. CBPR intends to move away from strict research agendas and works through a process of collaboration and trust between researchers and community partners, focused on acknowledging and respecting sovereignty (Swanson et al., 2016).

With forced transitions due to COVID-19 restrictions, this partnership was impacted by distance between the research partners, referred to as a “proximity paradox” by Ritchie et al. (2013). These authors note that, in a paradoxical way, a homogenized approach to CBPR may perpetuate power structures and inequity within research if not critically suited to the place and proximity of research partners. While CBPR scholars have developed numerous frameworks to categorize core principles or strategies of equitable research relationships, these frameworks have certain ingrained assumptions and expectations. Particularly influential is that of Israel et al. (1998) who explore nine

key principles of CBPR. Through systematic review, Mikesell et al. (2013) examine the correlation between the core principles of CBPR (Israel et al., 1998) and what is thought of as ethical CBPR. They identify that CBPR is often assumed to be inherently ethical, and therefore must follow a set of guidelines to adhere to ethical norms. Commonly cited guidelines include strategies such as ongoing community visits, face-to-face interactions (Rink, 2016) and developing community advisory boards (Flicker et al., 2007). As noted by Tamí-Maury et al, (2017 p.188): “Successful CBPR partnerships typically develop over considerable amounts of time and require travel for face-to-face meetings.”

What was identified in this project, however, is that certain principles of traditional CBPR may become more burdensome to community partners if strictly followed. In other words, although CBPR principles and frameworks are certainly useful as guiding strategies, they can be restrictive if used as quality assessments. For example, in this project continuous engagement and ongoing communication was limited due to time capacities. While these principles are set to establish trust and relationships, to force the community’s response and participation would prove burdensome on their already limited time and resources. To establish trust and relationship, this project leaned on pre-existing relationships between the larger research team, a collaborative and iterative research design based on community priority and capacities, and honest, transparent communication. In this way, the research is grounded in a community-centred praxis which emphasizes the use of participatory action research to address the needs and goals of a particular community through leveraging networks of assets of the research partners (Singer, 1994). Through this framework, the value of the research outcomes are evaluated through the quality of discussion with the community, reflectivity of the research to

community concerns and goals, and understanding research as empowerment and self-determination as a means of change (Jacklin et al., 2008) Thus, to retain respectful and utility focused research, the research design and process were led by the context. This research supports a claim to use CBPR frameworks as strategies or guidelines, yet allow the context, both the current events and partner-specific, to determine the quality of outcomes.

3.4 Methods

3.4.1 Semi-structured Interviews

The application of semi-structured interviews through a purposive sample of specialized knowledge holders is the primary method of inquiry used within this study. A total of 16 interviews was completed. The total participants can be divided by affiliation with industry (n=6), government (n=3), environmentalist organization (n=2), Grand Council Treaty #3 (n=1) and members of Eagle Lake First Nation (n=4). Participants were recruited based on specialized knowledge related to the research topic; many participants collectively identified in discussions with community partners and connections were made through existing relationships. The majority of interviews took place over telephone, or Zoom™. Telephone interviews proved far more successful in the context of this research due to limited internet connection in the community, which caused several connection issues while using Zoom. Following the interviews, participants were asked if they would like to receive a copy of their transcripts to vet or provide supplemental information on points they may have felt needed further

clarification; this technique is known as member-checking (Brear, 2019). Most participants chose the option of member-checking.

3.4.2 Participant Observation

In addition to interviewing, I was invited to sit in on two meetings between SFL holder's Eagle Lake First Nation. Participant observation was important in building context and understanding of the relationships and governance in the local forestry context. It was also important to create rapport with other interview participants who attended these meetings and to provide a platform to meet new participants. During these meetings I took notes which became a part of my data set.

3.4.3 Policy Analysis and Document Review

To complement and enhance participatory methods of data collection, document and policy review was undertaken. Relevant policy and legislation documents were analyzed in order to build an understanding of local forest governance. These methods provide important supports to fact-check and fill in information gathered through the participatory methods.

3.5 Analytical Framework

Interview transcriptions, field notes, and document and policy data were organized and analyzed using Nvivo 12. Data was analyzed using institutional mapping and frame analysis to explore the structural and normative frameworks of current governance decision-making. Generally, institutional mapping is used as a tool to understand existing distributions of power in relationships through identifying who has the ability to influence decision-making and why (Mcfadden et al., 2010). There are

several ways to approach institutional analysis, as no clear framework of mapping exists. For the purposes of this study, institutional mapping is grounded in Kooiman's (2003) theory of interactive governance, where governing is understood as built by the interactions among actors. Thus, mapping here is used to identify the main governing actors, their interactions, and the contexts in which they are connected.

To establish a normative framework of governance decision-making, frame analysis was applied to interpret the perspectives of the parties involved and provide their basic terms of analysis, debate, and agreement (Dryzek, 2013; Nursey-bray et al., 2010). Gray (2005, pp. 226-227) explains more specifically that frames are used to (1) define issues, (2) shape what action should be taken and by whom, (3) protect oneself and characterize others, (4) justify a stance taken on an issue, and (5) mobilize people to take or refrain from action on issues. Frames also indicate an individual's norms, values, and principles at work in a given situation and can thus be used as a way to explore certain elements of governance as situated in Kooiman's (2003) third order. Understanding the way actors frame the issue is important to understand what strategies may be available for reframing and breaking down walls among collaborators (Gray, 2005; Zurba, 2019).

CHAPTER 4: RESULTS

This chapter will set out the governing context for forest land decision-making within the TLUA of ELFN. The first section will present an institutional analysis to explore how the larger policy networks play out in a local context, thereby identifying the main actors and interactions that impact forest decision-making. This is followed by a frame analysis to understand convergences and divergence of the main actors' perspectives on the problems and strategies of collaboration in forest land decision-making. By identifying the main overlaps and divides between actors' perspectives, a clearer picture of the conflicts in forest land decision-making is identified. The following chapter will synthesize these findings to identify implications of the structural and interpersonal frameworks of decision-making.

4.1 Governing Institutions

Institutions can be defined as the rules that humans use when interacting within a wide variety of repetitive and structured situations at multiple levels of analysis (North, 2005; Ostrom, 2005). The following section will examine the key entities that set the governing rules for interaction within the study area.

The governing interactions in this study are located within Treaty #3 territory. The mandate of GCT3 is to protect, preserve and enhance treaty and Indigenous rights by providing support from a political standpoint to its member communities around technical issues and strategic planning. This includes matters involving land and resources (GCT3, 2021). The mandate follows the means of inherent Anishinaabe law, guided by the written documentation of these laws: Manito Aki Inakonigaawin (MAI), or the Great Earth Law and the Nibi Water Declaration (Craft & King, 2021). The MAI was approved

through Elder gatherings and approved at a GCT3 National Assembly as a law of the nation in 1997. Although the MAI was officially documented in 1997, the spiritual laws that guide MAI remained unwritten as Anishinaabe culture is historically reliant on oral knowledge to retain records of culture (GCT3, 2021). A development event in 1997 initiated the necessity to document these laws to affirm the Nation's interest over the territory (Craft & King, 2021).

Within the current local governance structure of Eagle Lake First Nation, the Chief and three council members are elected for two-year terms by the community to represent the needs of the community. ELFN band activities happen through programs overseen by the education department, construction department, economic development department and the main liaison department for this research, the ELFN Land and Resource Office. The Land and Resource Office is the main point of contact between the OMNRF Northwest Region forest management staff³, the local provincial district offices' staff, industry forest management companies and forest policy makers with ELFN. The staff of the Land and Resource Office staff then work to update leadership and community members on what notifications and proposals are received from government and industry. Jordan Gardner, the Eagle Lake Lands and Resources Manager explains his role in detail:

It's about bringing it back to Chief and Council because they have so much on their plates. So there's all these letters and emails going to them and they don't get to see everything. So that's basically my job – being that person between our

³ The Northwest Regional OMNRF operates out of five offices within the Treaty #3 area: Fort Frances, Kenora, Red Lake, Sioux Lookout, and Dryden (covering the ELFN TLUA).

government and industry. And building capacity in the community. (Jordan Gardner, ELFN)

Through representation by Chief and Council, and the specialized expertise of the Lands and Resources Office, Eagle Lake First Nation works alongside other forest land decision-makers on any developments or issues within their Traditional Land Use Areas (TLUA). The Lands and Resources Office is active in supporting the actions of the Chief and Council to represent community priorities through mapping projects, TLUA projects, and several projects that gather community values. Eagle Lake First Nation's governance is pro-active in supporting the needs of their community while navigating the dynamics of government-to-government relations in land management. ELFN has its own internal resource law, the Maanachi Totaa-Aki (MTA), which was written with the guidance of Elders in 2010 to be a guiding principle for development within their traditional territory. The international resource law was developed in support and connection with the MAI. Chief Gardner of Eagle Lake explains the importance of these documents:

When we developed our document in 2010, we followed that [MAI] as the guide. Our people when they developed our document, it supported the MAI a lot. So they work hand in hand together, they're not two different things. In terms of our guide and how you're going to develop your territories in the future, everything was pretty clear on that. (Chief Gardner, ELFN)

All resource extraction and development initiatives within the traditional territory are intended to seek guidance through this internal Great Earth Law as well as the MAI of Treaty #3.

The OMNRF has a hierarchical governing structure divided into distinct branch units responsible for different aspects of land management (Figure 1)⁴. For the forests around the Dryden region, the Dryden District Office, operating as a branch under the OMNRF Northwest Region, one of three regions in the province, is the main point of contact for local level planning and coordination. Most of the work through this branch involves collaboration with the Sustainable Forest License (SFL) holders to develop forest management plans, review Annual Work Schedules, and conduct compliance inspections on forestry operations. Although the Dryden District holds most of the responsibility for communicating policy and working with the SFL holders to develop their plans, the Forest Industry (OMNRF, 2021b) and Policy divisions (OMNRF, 2021c), each under a separate Deputy Minister, hold the responsibility to develop policies implemented by the regional offices (OMNRF, 2021d) The Forest Industry Division operates out of Sault Ste. Marie, Ontario and the Policy Division out of Toronto, Ontario, thus marking significant spatial divides between where policy is made and where it is communicated and implemented.

⁴ With the recent ministry merge in June 2021, the OMNRF shifted to become the Ministry of Northern Development, Mines, Natural Resources and Forestry (MNDMNRF). In spite of this change, this chart is out of date however no updated organizational chart is yet available.

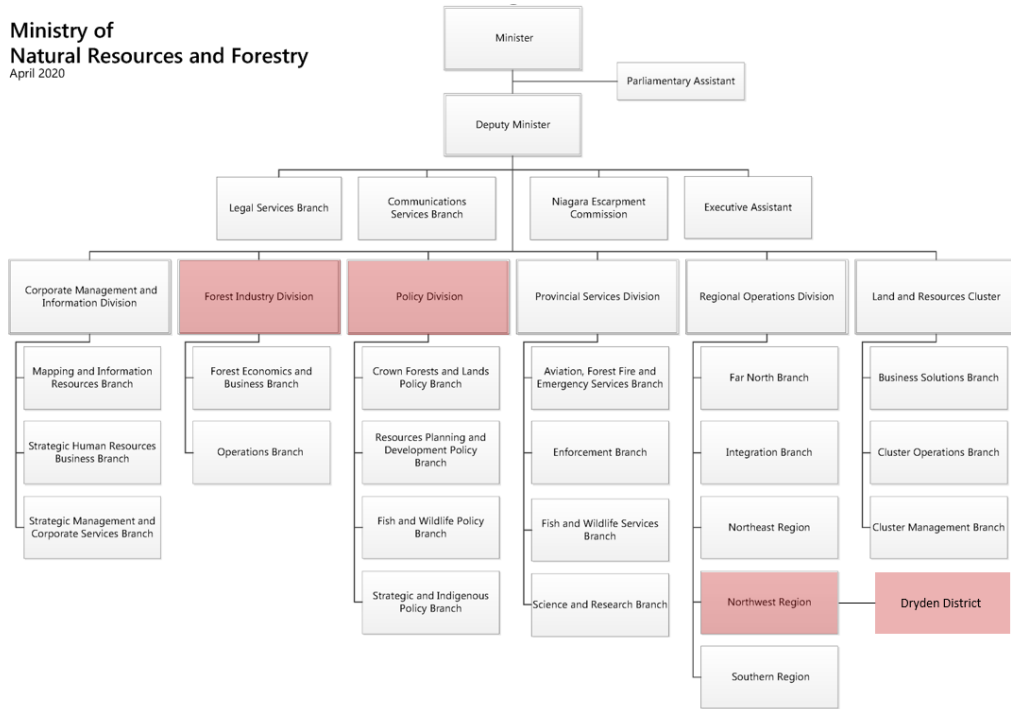


Figure 1:
Organization Chart for OMNRF as relevant to the study area. Adapted from the OMNRF(2021e) out of date as of June, 2021.*

Due to disagreements in the intent of the treaties, Crown land boundaries overlap with the territories of Treaty #3 and the TLUA of Eagle Lake First Nation where the responsibility for management on Ontario’s Crown land is allocated to the OMNRF. Crown forests are divided into management units, most which are managed by forest management companies on behalf of the OMNRF. The units are managed through forest licences, the most common being the Sustainable Forest Licence (SFL), which set out boundaries of territory in which the SFL holder is responsible for management of timber and forest roads. SFLs are granted as 20-year timber-harvesting leases and reviewed and renewed on a 10-year basis. Units not managed under a forest licence are the responsibility of the OMNRF to prepare and abide by forest management plans.

Within ELFN’s TLUA, there are five main forestry units of concern: the Wabigoon Forest, managed by Domtar,⁵ the Dryden Forest, managed by the Dryden Forest Management Company (DFMC), the English River Forest, managed by Resolute Forest Products Canada Inc., and the Whiskey Jack Forest, managed under the OMNRF District Office in Kenora (Figure 2). These SFL holders operate under Ontario’s renewed tenure system as described in Section 1.4.2.

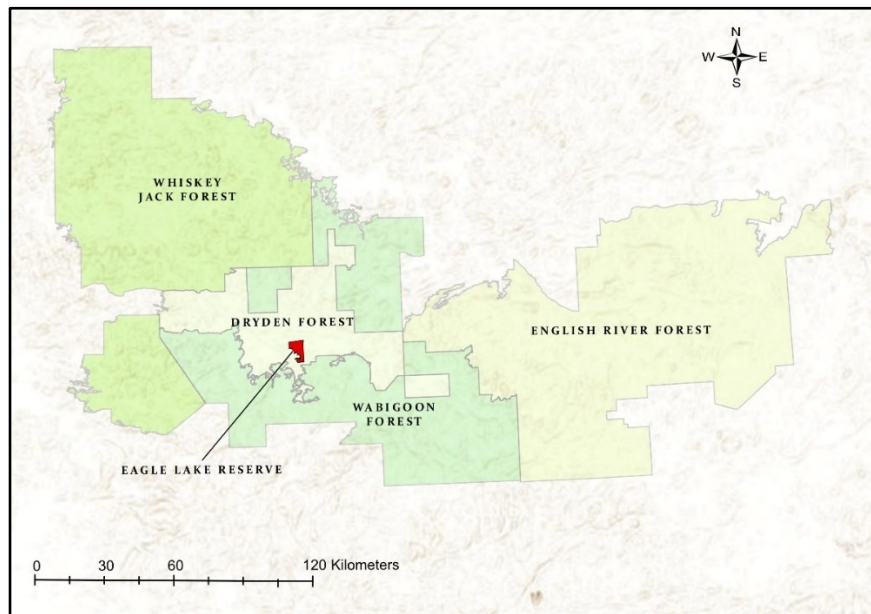


Figure 2:
Map of the Forest Management Units Overlapping Traditional Territories of Eagle Lake First Nation

The Dryden Forest Management Company was established in 1997 and granted its first SFL in 1998 over approximately 136,000 hectares of forested land classified

⁵ In May 2020, Paper Excellence, a Canadian pulp manufacturer announced its purchase of Domtar, expected to be finalized late 2021. Paper Excellence has stated that they intend to have Domtar continue as a stand-alone business to continue operations under its current management team. (Forbes, 2021; Northern Ontario Business, 2021)

within the Dryden Forest Management Unit (DFMC, 2021). The current forest management plan for the management unit was implemented beginning April 1, 2021 and will be in operation for 2021-2031. The DFMC operates as a shareholder corporation where a group of shareholders work under a board of directors to provide support and direction to the management team. It is intended to be a more open and collaborative forum for participatory management. Unlike many other SFL holders, the DFMC does not operate under a directive to allocate timber to a specific mill; rather, the DFMC provides wood to a variety of mills within the region. A representative of the OMNRF highlights this management as unique from others:

The Dryden Forest is unique in comparison to other forests as the SFL holder does not “own” a mill where the wood harvested is directed to. The Dryden Forest is a relatively small forest and the SFL is managed through a board of directors who are all shareholders. The shareholders are predominantly forestry contractors who carry out forestry operations within the forest. The harvested wood is sold to various mills within the northwest region. (OMNRF 1)

In comparison, the Wabigoon Forest is managed under an SFL held by Domtar Inc, an American paper product manufacturing company. There is a local Domtar production facility in Dryden which acts as the SFL holder and forest manager for the current 2019-2029 plan. As such the Domtar SFL has harvesting shares and a wood supply commitment to support its mill operations. The Domtar mill is concerned with the conversion of fibre into usable products such as paper, tissue, and pulp. Similarly, Resolute Forest Products Inc. operates as a pulp, paper, tissue, and wood production facility with its local office situated in Thunder Bay. The Thunder Bay operation holds

several SFLs in local forests including the English River Forest, under the current management plan from 2019-2029. The Kenora Forest is managed under the current 2012-2022 plan by Weyerhaeuser Company, also an American owned timberland company. The local mill is in Kenora, which sources fibre from a number of forests within approximately a 300-km radius around Kenora, including the Dryden Forest. Thus, to be meaningfully involved in forest management affecting their TLUA, Eagle Lake First Nation must engage with several large, foreign-owned companies and government offices.

4.2 Formal Governing Interaction

Forest management entities are bound by the *Crown Forest Sustainability Act (1994)* to work under the Forest Management Planning Manual (2020) to adhere to guidelines on forest management planning on Crown forest management units (FMUs). The interactions surrounding Crown forest land management and decision-making are largely bound within the legislated forest management planning process. When speaking about relationships in forest decision-making, all participants expressed that most relationships and communication largely played out through these regulated processes.

The following section will describe the current arrangements between ELFN and SFL holders as categorized through Wyatt et al.'s (2013) typology of collaborative arrangements involving Aboriginal peoples in the Canadian forest sector. The arrangements are depicted in Figure 3 through the highlighted boxes which display arrangements that are currently in place within the local governance context, whereas the outlined box displays arrangements in progress. The first arrangement that establishes the basis for all others is the Treaty #3 settlement agreement. The Resource Revenue Sharing

Agreement (RRSA) between ELFN and the OMNRF acts as an economic agreement, whereas the overlapping tenure, if ever enacted, operates as a significant volume tenure. Should the process to establish an MOU between ELFN and the local OMNRF resume, this could offer a sector-specific MOU for forestry operations and could potentially lead to new types of management arrangements. Arrangements framed within the forest management planning process can be categorized mostly under “influence on decision-making” whereas the Local Citizens Advisory Committee (LCAC) and planning boards act as advisory bodies and The Forest Management Planning Manual (OMNRF, 2020a) (FMPM) and the Forest Information Manual (OMNRF, 2020b) (FIM) regulate different requirements for the provision and exchange of information between SFL holders and communities.

Treaties, agreements, MOUs	Management and Planning	Influence on Decision-making	Forest Tenures	Economic roles
Settlement Agreement	Aboriginal Comprehensive Planning Activities	Delegated authority Co-management	Aboriginal lands Aboriginal tenure Trusts Long-term area	Transformation Forest planning Harvesting
Sector MOU		Advisory tables Exchange info.	Significant volume	Silviculture
Case MOU	Land use studies		Short-term Minor & special Emerging	Employment Revenue Non-timber

Figure 3:
Typology of arrangements between ELFN and the local forestry sector.
Adapted from Wyatt et al., (2013)

4.2.1 Treaties

Prior to exploring specific interactions, it is important to acknowledge the roles and responsibilities of the Treaty #3 agreement and understand the rest of the agreements as they build upon the treaty. The treaty provides the basis of interaction between Crown and First Nation Band governments through establishing a settlement agreement that shapes the rest of agreements on these shared lands. Through the relationships and agreements laid out through treaty-making processes, the relationships are established as prolonged contact rather than one-off transactions. Although the Treaty #3 is called an agreement, it is important to understand that there are fundamental differences in the understandings of the treaty between different parties. The Canadian government recognizes and sets out to protect treaty rights through Section 35 of the *Constitution Act*. Section 35 imposes on the Crown, both federal and provincial governments, a duty to act honourably and only infringe Aboriginal and treaty rights after fully understanding the nature of those rights and how any proposed development may affect those rights. This obligation applies to forest management and, thus, the Province of Ontario has a duty to address the potential infringement of Aboriginal and treaty rights by forest management activities. The Supreme Court of Canada decision in *Grassy Narrows v. Ontario (Natural Resources)* clearly spelled out this obligation:

When a government — be it the federal or a provincial government — exercises Crown power, the exercise of that power is burdened by the Crown obligations toward the Aboriginal people in question. Here, Ontario must exercise its powers in conformity with the honour of the Crown, and the exercise of those powers is subject to the fiduciary duties that lie on the Crown in dealing with Aboriginal

interests. For Treaty 3 land to be taken up, the harvesting rights of the Ojibway over the land must be respected. Any taking up of land in the Keewatin area for forestry or other purposes must meet the conditions set out by this Court in *Mikisew Cree First Nation v. Canada (Minister of Canadian Heritage)*, 2005 SCC 69, [2005] 3 S.C.R. 388. If the taking up leaves the Ojibway with no meaningful right to hunt, fish or trap in relation to the territories over which they traditionally hunted, fished, and trapped, a potential action for treaty infringement will arise.

As such, treaty rights must be addressed in decision-making processes, but these rights are often understood differently by the Crown and by Indigenous people. Chief Arnold Gardner of Eagle Lake First Nation offers an Indigenous interpretation:

We understand from our community, and I understand, that we signed the treaty not so that we gave up our rights to the resources that were there. That was never in our minds, given to anybody or surrendered as far as we're concerned. And that's what I mean, there's got to be some resolution to that. (Chief Gardner, ELFN)

The original treaty establishes the fundamental basis of relationship by establishing the recognition of overlapping territory and ensuing needs for consultation. In support of treaty right protection, a Resource Revenue Sharing Agreement (RRSA) was signed between the Ministry of Northern Development and Mines and Ministry of Natural Resources with ELFN, other participating communities, and Grand Council Treaty #3. The agreement was signed in 2018 ensuring shared stumpage fees and mining

royalties from developments within Treaty #3 Territory. The RRSA further entrenches the recognition of Anishinaabe rights to territorial land and resources through further acknowledgement of overlapping territories and ensuing Treaty rights. Ogichidaa Francis Kavanaugh, Grand Chief of GCT3, is quoted in a news release:

The Agreement with Ontario is the operationalization of our Great Earth Law—Manito Aki Inakonigaawin. Resource revenue sharing provides economic independence for the Anishinaabe Nation in Treaty #3, while acknowledging our sovereignty, and relationship with our natural resources. (GCT#3, 2018)

Eagle Lake First Nation and the OMNRF are also in the process of working towards a New Relationship Agreement to establish new approaches to working together in forest land decision-making. This relationship would provide a sector specific MOU to establish different ways of working together in forestry. The process of this agreement has been stalled in response to COVID-19; no further information on this process can be identified. Treaty relationships and MOU agreements provide the foundation through which other collaborative arrangements are carried out, and the foundation of a long-term relationship between First Nations and governments (Wyatt et al., 2013).

4.2.2 Interactions Framed within the Forest Management Planning Process

The majority of forest land use decision-making occurs within the forest management planning (FMP) process. This process is designed to determine how best to manage the forests, and offers different opportunities for Indigenous engagement with forest planning. Although the FMP process does not intend to resolve or define treaty rights, it is where disputes often arise between OMNRF and Indigenous communities (MNR, 2005). Disputes over land and resources that arise through this process must be

taken up with the OMNRF as the constitutional division of powers affirms OMNRF responsibility for lands, resources and consultation processes.

The FMP process is shaped by the various forest management guides and manuals. The Forest Management Planning Manual (OMNRF, 2020a) (FMPM) provides the direction for preparing a plan and the Forest Information Manual (OMNRF, 2020b) (FIM) provides the requirements for how information is shared to support planning and management directions (OMNRF, 2021e). These two manuals, along with the Forest Operations and Silviculture Manual (OMNRF, 2020c) and the Scaling Manual (OMNRF, 2020d), are regulations to *the Crown Forest Sustainability Act (1994)*, providing the rules to implement the spirit of the CFSA. In addition, there are numerous guides adding details to the implementation of sustainable forest management in Ontario. Dave Legg, manager of the DFMC, explains in detail the role of these manuals and guides:

The guides are part of legislation. The [Crown Forest Sustainability] Act says we are required to follow the Forest Management Planning Manual for Ontario. The manual is tied to law. These manuals tell us how and some of the considerations we need to consider in managing the forest for the life of the forest, not just for today. If they need to change something, then it's just changing of a guide and it doesn't have to go through legislation to change a law. (Dave Legg, DFMC)

In preparation and development of the forest plan itself, SFL holders are required through the Forest Management Planning Manual (FMPM) (Part A Section 3.0) to provide a standardized approach to consultation with all members of the local communities (Figure 4). Indigenous communities are also asked if a customized consultation approach (CCA) is desired (Part A, s. 3.4, pp. 108-110). If there is no

response from the First Nation or their request is denied, consultation is sought through the standardized public participation format (Table 4, Part A, s. 3.5, p. 110) where they can comment on different phases of draft plans and request information sessions on the FMP hosted by forest managers. The FMPM also provides for Indigenous representation on both the planning team (Part A, s. 3.2, p. 107) and the Local Citizens Advisory Committee (Part A, s. 3.3, p. 108), Additionally, the FMPM outlines mechanisms for the identification and protection of Indigenous values (Part A, s. 3.6). What is not required by the FMPM is the consent of First Nations to proposed plans or consultation approaches.

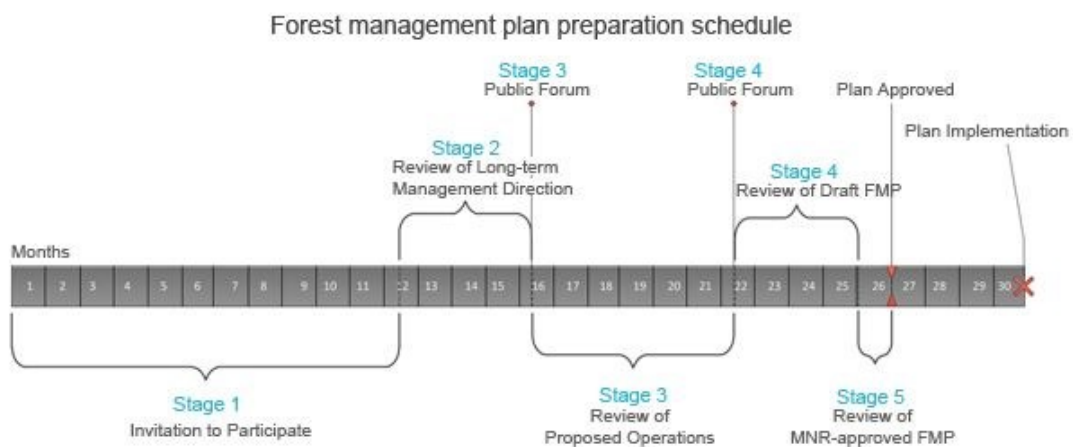


Figure 4: Formal stages where input will be solicited in the planning process (DFMC, 2021)

Although the Customized Consultation Approach (CCA) is often presented as a promising measure to work with specific communities to collaboratively develop engagement plans, many communities lack trust and resources to pursue this option. In speaking with study participants, most OMNRF and industry participants noted the

potential of a CCA, yet the option was not mentioned by ELFN participants without prompt. When asked, participants of ELFN remarked that although it could be an option in theory, they lacked trust that consultation plans would move beyond talk. There was also a fear noted that a CCA would remain as consultation and lock groups into a position of being asked, rather than making the decisions. In August 2020, the Chapleau Cree, Missanabie Cree and Brunswick House First Nations came forth with a lawsuit against the Government of Ontario for failure to consult on the recent Gordon Cosens forest management plan. One issue noted within this case is the failure of OMNRF to take seriously the CCA drafted by the communities. Since 2015, these First Nations sought to develop a CCA with the OMNRF; however, in the Gordon Cosens plan, the approaches listed within the CCA developed by the First Nations were deemed “out of scope” and were not applied (Macnab, 2020; McIntosh, 2020).

As per the FMPM (2020), FMP’s will be prepared by a plan author assisted by an interdisciplinary planning team and Local Citizens Advisory Committee (LCAC). LCAC’s are formalized committees under *the Crown Forest Sustainability Act*, through which members are appointed by the OMNRF district manager to assist in the preparation of forest plans. Each forest management unit concerned within this study has an LCAC, which sometimes cover two or more forest units. Currently ELFN holds a representative on the Dryden LCAC which “will assist the Plan Author and Planning Team in the preparation and implementation of forest management plans on the Dryden and Wabigoon Forests” (Dryden LCAC, 2021). ELFN also has a representative on the Dryden planning team. Although these teams are interdisciplinary, there remains little representation of Indigenous voices on LCAC and planning committees, which creates

challenges to have substantial representation and recognition in decision-making. Interview participants from ELFN commented that LCAC participation often had a checkbox feel leading to low trust in the process. It is commonly noted that mistrust and low participation is a common experience in forest advisory committees (Parkins, 2010; Robson & Rosenthal, 2014). In conducting a survey to participatory advisory committees across Canada, Nenko et al., (2019) found that Indigenous participants generally found these processes to be very unfair, and felt there are few opportunities to raise concerns or have information they provide be actually included. This is also recognized by the OMNRF in the most recent State of the Forest Report (2016) who rate themselves as fair to poor on Indigenous participation in forest planning (MNR, 2016).

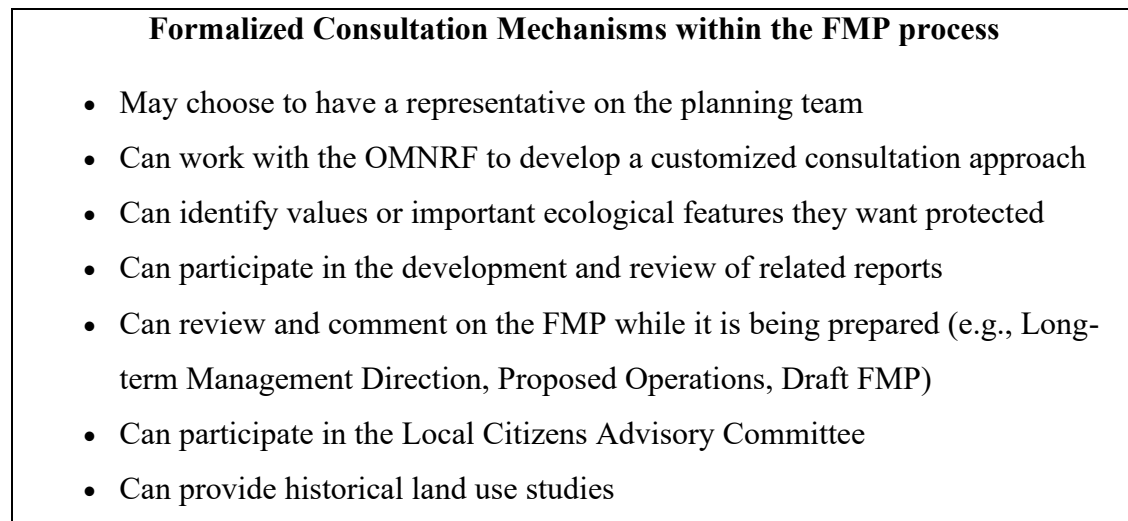


Figure 5:
Formalized Consultation Mechanisms for Indigenous Peoples in the FMP Process (OMNRF, 2021e)

In the FMP process, the ELFN Lands and Resources Office is an active participant in identifying values in need of protection as well as providing feedback in reviews. In addition to required consultation and information exchange processes, the

Dryden District OMNRF has begun offering “Forestry 101” educational programming which “has so far been an opportunity for Indigenous community representatives to understand the processes that the Ontario Government uses for forest management” (OMNRF representative).

4.2.3 Agreements

ELFN has entered into several forms of agreements with Ministry and industry partners. As per the Dryden Forest Management Plan (2021), the DFMC will provide the opportunity for community operations “to conduct harvesting operations on the Dryden Forest in accordance with an approved Forest Management Plan.” ELFN holds 4.37% of the available harvest area that is determined through the FMP process. At one point there were active harvest operations within the community; however, there are two main challenges cited from participants of ELFN that stand in the way of accessing revenue from these blocks. One challenge ELFN participants expressed was dissatisfaction with the designated blocks, as many are within culturally valued areas the community intends to protect. Another issue participants noted was the rapid technological advancement of forest operations that surpassed the resources held by the community to effectively participate in timber harvest. When speaking with ELFN Elders, stories were shared of the community’s rich history of participation in the logging industry, citing a time when community members were active loggers. With rapid advancement in timber harvesting technology, wood extraction has become much faster. It was noted that ELFN could not keep up or afford the steep capital investments needed for new technologies. The transition out of logging was supported by other reasons such as policy change, youth migration, and the contrasting value of protection of traditional territories over rapid

extraction. This point highlights that provincial values and the allocation approach are not aligned with First Nation forestry priorities, values, or capacity.

4.2.4 ELFN-Led Interactions

Participation can be thought of as operating within the legislated boundaries CFSA and regulations of the FMP process, but it is equally critical to recognize the strategies employed outside of colonial government boundaries. The application of the MAI and MTA are core strategies implemented by ELFN to pursue their own understanding of rights that should guide consultation. These laws offer written understandings of Anishinaabe spiritual laws, thus offering a bridge between spiritual laws and constitutional laws (Figure 6). The Nibi Water Declaration was developed by the Women's Council, the Territorial Planning Unit (TPU), and the Decolonizing Water research team, with the support of Elders and knowledge holders. The declaration works to ensure the Anishinaabe Nibi Inaakonigewin (water law principles) are formally recognized within the governing processes and decisions. These documents guide leadership of GCT3 in the development of decision-making processes as well as lead the approaches to consultation from development projects within Treaty #3 territory:

It clarifies how all industry, not just forestry, know how to approach. It is basically ELFN trying to have a standardized approach in how to be consulted. Meaning how it should look for ELFN and for our future generations (Participant 002)

While the consultation processes led by the OMNRF and engagement processes of the FMP process require engagement, they do not require consent. In contrast, the MAI and MTA list consent at the very center of engagement. These documents do not list sets

of regulations on consultation; rather, they frame all consultation processes through the laws of the Creator, again acting as a bridge between constitutional law and spiritual law. In this way, these processes operate across boundaries of knowledge and worldview rather than adhering to the imposed boundaries of British constitutional law.

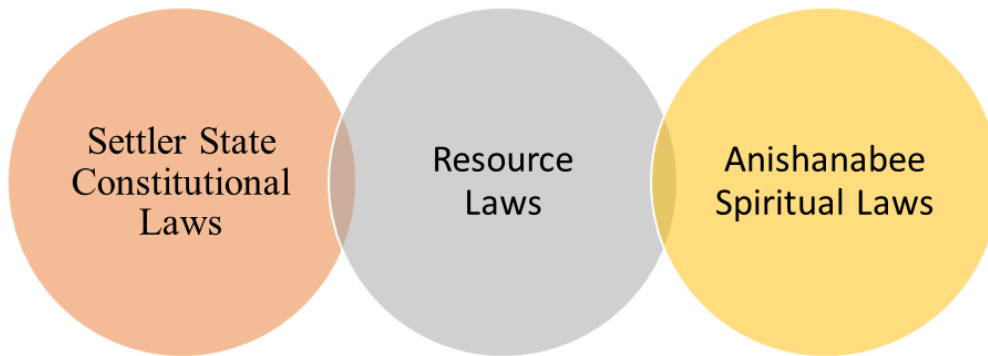


Figure 6:
Positioning laws across boundaries

4.3 Dynamics of Conflict in Forest Decision-Making

Whereas the previous section identified the structural framework of governance, this section now presents a frame analysis to enable a normative understanding of the governing dynamics. The diverse governing actors bring diverse perspectives, values and worldviews into forest decision-making that create conflict when misunderstood or misaligned. This section examines these diverse perspectives to identify disagreements and consensus about the issues and proposed solutions among actors. The analysis used through the following section is rooted in framing theory which looks at the communicative basis of multiparty disputes to help make sense of where and why parties come into conflict (Brummans et al., 2008).

The following sections will first explore the ways in which the industry, government, and ELFN groups identify the challenges to collaboration. Solution framing is then presented as it flows from the identified problem areas and informs the actions that parties should take. Through exploring the parties' ways of approaching problem solving, it becomes clear where and why parties act to protect their identities, and where actions present as incompatible with others' values and perspectives (Table 2).

Table 2:
Overview of prognostic and diagnostic framing

		ELFN	Industry	OMNRF
Trust	Problem	History of exploitation; policy changes undermining Treaty respect; knowledge appropriation; lack of opportunities in decision-making; and improperly implemented or reliance on free, prior and informed consent (FPIC).	Legacy of mistrust; negative public perception of forestry; low participation rates	Legacy of mistrust; negative public perception of forestry; low participation rates
	Solution	Legal action; OMNRF and industry need to listen; MAI/MTA applied; policy changes need to be made for the Treaty to be respected, including both the wording of policies (“stakeholder” to “rightsholder”) as well as actions and regulations pursued (Indigenous participation right at the beginning of decision-making)	Education on the process; improved two-way dialogue	Education on the process; improved two-way dialogue
Complex FMP Process	Problem	Rigid FMP timelines limit community processes; overburdened community capacity, lack of representation	FMP and community timelines are different; language is directed toward professionals; government processes too rigid	FMP and community timelines are different; language is directed toward professionals
	Solution	More non-economic opportunities for decision-making authority; increased internal capacity; institutional flexibility to be inclusive of community timelines;	Education on the process to increase public knowledge; more locally relevant policies such as appropriate (such as stand specific planting and managing)	Education on the process to increase public knowledge
Economic Driven Process	Problem	Non-economic opportunities are not available; resource dependent economy; limited capacity to participate in economic opportunities	Resource dependent economy; markets are poor; constricts time and energy; government processes stem from economic values	Resource dependent economy; markets are poor; constricts time and energy
	Solution	Greater Indigenous representation in decision-making processes; more non-economic opportunities to participate; increased internal capacity	Lower market costs; more locally relevant policies (such as stand specific management)	Lower market costs

4.3.1 History and Legacy of Mistrust

All participants noted that the current interactions in forest management and planning are built upon a legacy of mistrust between the settler-state government and Indigenous peoples. Mistrust extends beyond industry and provincial forest management to the Government of Canada in general as a result of the traumatic impacts of colonization. Through literature on Indigenous and non-Indigenous natural resource partnerships, the concept of trust is generally approached as twofold: the existing system's ability to meet the priorities, values and needs of Indigenous peoples (Kant & Brubacher, 2008; Nenko et al., 2019) and the eroded trust throughout the history of colonialism and discrimination (Hotte et al., 2019; Nikolakis & Nelson, 2019). The identification of both past and present sources of mistrust was emphasized by participants of ELFN. Participants commented that trust had been eroded over time through the history of exploitation and assimilation; mistrust is continuously impacted through knowledge appropriation, policy changes, lack of opportunities in decision-making, and improper implementation or reliance on FPIC.

Participants strongly emphasized the mistrust of knowledge sharing, specifically the provision of values to inform forest planning. Some information containing sites of significance cannot be precisely pinpointed on a map and can be wrongfully interpreted. There was concern expressed that when values were provided by the community to inform the FMP decision-making, those values were not protected in the ways ELFN intended.

O'Flaherty et al. (2008) note that when knowledge is shared across different value systems, there is high potential for the meaning and interpretation of knowledge to be

misconstrued. McGregor (2002) on the other hand, emphasizes the inflexibility of the planning and management systems themselves that limits the mobilization of Indigenous knowledge. Policy changes and structural limitation were also identified as a common cause of mistrust from participants of ELFN. Specifically, the issues surrounding Farabout Peninsula (see section 1.3.2) were cited as they continue to undermine the recognition of shared land ownership.

The foundations of trust are accentuated by ineffective communication, where consultation was felt to be a “checkbox” process rather than meaningful. The application of FPIC processes were brought up often by ELFN participants stating that the primary method when industry and government seek consultation is through email and letter, which are not effective for community priorities and timelines. Within this framing, the community notes the government and industry as trying; however, the OMNRF is thought to hold the final authority in decision-making regardless of the level of community engagement. In several interviews with members of ELFN, it was brought to my attention that the word “trust” and “collaboration” were triggering, and I was asked to rephrase my questions. Rather than words that imply shared responsibility, it was suggested to talk about listening as explained by Chief Arnold Gardner of ELFN: “A lot of the things we’re talking about, and sharing with the industry, they’ve got to start listening and start doing. Does that make sense? Start listening, live it, do it, walk your talk.”

There is a great deal of mistrust from the community toward government and industry processes that continues to be eroded through current processes. This mistrust is recognized by industry and government as a reason for low rates of ELFN participation in

the FMP process. A main challenge explained by industry and government participants is the inability to understand the needs and wants of ELFN due to the lack of Indigenous participation and representation through the FMP processes. This finding is further confirmed by the OMNRF who acknowledges their poor performance in Indigenous participation in forestry in the 2016 State of the Forests Report (OMNRF, 2016) An explanation offered for the low levels of trust from community toward forest decision-making processes stems from the histories between the government and Indigenous peoples as well as the generally negative perception of forestry. Furthermore, government and industry participants noted that mistrust of forestry is felt beyond Indigenous communities and is also a challenge with broader public engagement. Erik Holmstrom, the Timberlands Manager at Weyerhaeuser, explains:

Unfortunately, there's a negative public perception of forestry that we have to battle. Initial discussions with stakeholders often focus on the terrible things they've heard about the forest sector. For example, how logging is destroying habitat and impacting water quality, or how the moose population is declining because of over harvesting. The ENGOS have done a really good job at infiltrating public perception. Their messaging is designed to triggered unfavorable emotions and unfortunately there's not a lot of science behind it. This can create a barrier with respect to collaboration.

Thus, all participants recognized the public mistrust and legacy of mistrust as it contributes to low levels of Indigenous participation. All groups noted that the lack of trust creates further gaps in understanding what Indigenous people wanted and how to

improve FMP processes; however, there was a polarity in how and when trust becomes eroded. Whereas ELFN participants identified both past and present actions as instigators of mistrust, most industry and government participants focused on the legacy of past events. Thus, there is a significant disconnect on the temporal challenges of trust: whereas trust for ELFN is an ever-shifting and growing challenge, trust for industry and government appears as more of a past event rather than ongoing. There is much value in acknowledging the exploitative history of natural resource policy in order to move forward to new opportunities to be shaped in ways that are meaningful to Indigenous communities (Zurba, 2014). Yet, an acknowledgement of the past does not necessarily imply a recognition of the continued impacts of colonialism and may fail to confront the structures and actions of the current systems.

4.3.2 Complex Structure of the FMP Processes

Rigid and complex FMP processes were collectively identified as a barrier to better communication, relationships, and greater community participation in the processes. Participants within ELFN interpret the rigid and complex FMP timelines as unsupportive of community processes and limiting to work within. Letters and emails were noted as the main modes of communication, often requiring responses within a certain timeframe. This requires consistent human capacity to attend to mailboxes and respond to incoming requests. Yet ELFN participants cited several cases where FMP processes are not appropriate, or there are barriers to meaningful participation. ELFN participants described cases in which actions were pursued by industry and government without consultation due to a lack of response within times of grieving, illness, or ceremony. In the case of a death within the community, it is common for delays to

happen that allow for sufficient grieving time for community members. In times of ceremony or celebration, such as the Migisi Sahgaigan Annual Pow Wow, offices also close for the duration of the activities. Also identified were the timelines of community-hosted FMP information sessions, which are often held in business hours for government and industry representatives:

If they come in through the day, from 9 to 5, they'll only get people not working or the elderly. But if there are trappers, or people who go and get wood, those are the people who are going to be away 9 to 5. They should be the ones communicating to get that knowledge from the Elders during that 9 to 5 time.
(Participant 003)

It is commonly cited in participation literature that Indigenous peoples' participation is often inserted into conventional Western resource management institutions, including the content of discussion as well as the structural format such as timelines (Bowie, 2013). Participating in Westernized resource management processes often imposes a responsibility on Indigenous communities to develop the appropriate capacities to participate (Stevenson & Perreault, 2008) Participants of ELFN noted several immediate capacity limitations to engaging with the complex structure of the current FMP process. Primarily identified was the overburdening of human resources, such as the need for specialized forestry professionals to engage with the variety of consultation requests and knowledge extension resources to make traditional knowledge available while retaining ownership and intellectual property rights. Physical and institutional resources (such as physical space for meetings and access to forest harvesting technology) were described as limited to support knowledge translation

between forest management processes and ELFN. In the perspectives offered from ELFN participants, the economically-driven model of forestry was cited as the catalyst for the complexity of FMP processes. From this perspective, industry and government were framed as the main power brokers as the economic priorities of forestry are supported by the Ministry and framed by the legislation and policies which set the structural processes of engagement.

While government and industry participants noted that timelines are important to keeping business operating, they also recognized the incompatibility of FMP timelines and processes to community timelines and priorities. Many government and industry participants understood that most community members will not have the desire to engage in the full three-year FMP process, leading to community involvement only when conflicts with their values arise. This is thought of as problematic for relationships as often plans will already be in operation when these conflicts are brought forward. The forest management companies are dependent on revenue to sustain their operations, meaning that the timelines and strict processes are important. They are also limited by government regulations, which was noted as a barrier when building trust and relationships with the public as the rules are often given a higher priority than building relationships and trust:

The forest industry recognizes that stakeholder involvement is very critical, just as critical as getting government approval. It's just not necessarily mandatory, but in a public forest you want to manage the forest in a way the public supports. And I guess the dividing line is that sometimes the government tells you to do things you're not exactly supportive of. Sometimes it's difficult to explain to the public

why you're doing certain things other than it's mandatory. (Jack Harrison, Domtar)

Industry and government participants understood that the resulting levels of low participation, low representation, and negative perception of forestry limit dialogue between forest managers and Indigenous communities. Industry participants identified their role as operating within rigid government constraints while managing public concerns and values. A common identity assumed by industry participants was operating as a mediator between government and community. They identified challenges associated with this role:

There's a difference between the forest industry dealing with policy and forest industry dealing with the stakeholders. It goes from industry in the middle with policies on one side and stakeholders on the other side. Forest managers are stuck in the middle between the two and there is sort of a gap there. (Dave Legg, DFMC)

Despite frustration with rigid government policy, industry participants often identified a responsibility to translate complex information to increase community technical capacity to understand the processes.

Thus, both parties identified that the time sensitive and complex nature of the FMP process limits community input. Yet the reasons ELFN described for their limited input were that the current system is not supportive of community processes nor does the system account for the high level of capacities required to engage in the current system, which at best is not their ideal way of participating. Both industry and government participants, on the other hand, understood that the processes must adhere to somewhat

strict and rigid processes in order to retain competition in the markets and sustain their forestry operations. What can be identified through comparing and contrasting these frames is that each party makes choices to protect their identities, whether it is the cultural identity of ELFN or the forestry-based livelihood of government and industry. This is what Gray (2005) refers to as a risk frame, where choices are made based on how the consequence of an event is perceived.

4.3.3 Resource-Dependent Economy

Most participants identified that the economy of northwestern Ontario is highly resource-dependent, which constrains forest planning activities to work from economic driven priorities. This framing is aligned with staples theory, which suggests that the export of natural resources has a significant impact on Canadian economy as well as its social and political systems (Watkins, 1963). Staples economies are thought of as vulnerable to bust-and-boom cycles when there is an over-reliance on the export of natural resources, creating further dependency on the resource. Participants of ELFN saw this reliance on economic priorities as limiting other opportunities grounded in other values that may be in opposition to economic values:

For communities who want to develop forestry industries, the government works in a very collaborative manner. For communities who are concerned about the amount of wood and locations of the cuts, the process is much less collaborative, where communities are left feeling unsure as to whether their values are protected.
(Participant 001)

Participants within industry and ELFN explored the underlying motivation of the current processes as economic driven, highlighting the resource-dependent economy.

Also brought to attention was the temporal scale of Anishinaabe existence within the resource dependent economy:

The realities are that we're going to be here for a really long time. We're placed here by the Creator, we're not going to be leaving, so sometimes I wonder about towns and other communities and what's going to happen you know? When the resources run out, well it's like anything. When you're a hunter or a trapper, when the resource runs out, you move on. Same thing when the resource runs out: the town will go dead. There's a lot of towns that are ghost towns now anyways, because the minerals ran out, the forestry ran out. But us we're going to always be here. (Chief Arnold Gardner, ELFN)

In this perspective, it is economics driving forest decision-making, led by industry revenue, and OMNRF-supported policy and legislation. Chief Gardner also expressed that Indigenous peoples are on a different path led by different priorities which makes forestry, in its current form, a threat to ELFN.

Industry perspectives of the problem generally highlighted the underlying economic drive of their businesses which limits the capacity for industry to offer more flexible processes as seen in the previous section. There is an understood institutional rigidity that arises in response to needing economic grounding:

Who funds the forest management? Most of the forest management work is funded by the forest industry so we have to be profitable or else forest management doesn't occur. Occasionally some companies go bankrupt then the forest management work goes back to the government, who then fund it out of the government office. (Jack Harrison, Domtar)

Industry participants noted the barriers of the market and specific challenges faced in northwestern Ontario to remain competitive, and the role forestry plays in contributing to local economic stimulus. Government participants did not speak as much to the economic drive of forest planning other than the recognition of the challenges to balance social, economic, and environmental needs within forest planning.

What can be identified is, again, the framing of risk resulting from a staples economy. Whereas ELFN identified a risk based on the connection of culture to land and forests, industry and government identify a risk based on the discontinuation of business. From an industry perspective, forestry is understood as the key to balancing ecological, social, and economic values, and thus there is an underlying notion that forestry must go on. However, the notion that forestry must go on in the way it is currently operating impedes the risk framing of ELFN. Thus, although both parties note the challenges associated with the staples economy, the impacts are divergent and often in contradiction.

4.4 Strategies

There is a collective desire among participants for greater communication and increased multi-directional dialogue. Whereas themes of the challenges for collaboration may be collectively identified, the experience of the problem diverges, as do the solutions. The problem framing from participants of ELFN revolved around the ongoing mistrust, limited community capacity, limited space in FMP for community processes, and desires for non-economic ways of participating. The grounding of these problem frames was often contextualized as coming back to questions of land ownership, as Chief Gardner explains:

It always comes down to ownership. We do have a Treaty and they do have to respect and acknowledge that and we can go a lot of miles after that once its acknowledged. But if you're always talking about collaboration, you're going to be stuck there for a while. (Chief Gardner, Eagle Lake First Nation)

Here, Chief Gardner is highlighting that collaboration is meaningless unless negotiations for collaboration begin with recognition of shared ownership and action based upon this recognition. Otherwise, collaboration becomes stuck at participation, rather than incorporating authority or power-sharing. Due to this desire for recognition, and authority, community solutions often were not contextualized to operate only within the FMP process. Rather, solutions are posed both to strategically build capacity within the FMP process and beyond to resist the current FMP structure or to restructure. Internal capacity was commonly recognized to meet the needs and increase authority within the current framework as well as to meet the economic opportunities such as the overlapping harvest license. However, stemming from the contextualization offered by Chief Gardner above, solution framing commonly arose in response to questions of land ownership. The need for the OMNRF to respect the Treaty and Anishinaabe rights was strongly identified as a needed action. Application and respect of the MAI and MTA was identified as an appropriate strategy, as was legal action to enact a rights-based framework of land decision-making.

To understand multi-party conflict, Gray (2005) identifies certain conflict management frames that explore how parties desire conflicts to be dealt with. The frames identified within ELFN participants aligns strongly with what Gray (2005) refers to as an adjudication frame, meaning parties desire the involvement of a judicial authority and

appeal to political action to address the conflict through appeal. These solutions are offered alongside the need for internal capacity building activities. Less commonly identified is what Gray (2005) refers to as a joint problem-solving frame. Whereas joint-action and collaboration are used to find common ground, joint-problem solving was identified as insufficient in itself as participants felt there was a hollow posturing of “collaboration” and “joint-problem solving”. Participants of ELFN continue to feel their values, priorities, and concerns are not adequately heard when engaging with forest managers, and thus the idea of collaboration lacks clout.

The diagnostic framing from industry and government revolved around the restrictions of the FMP process, the technical and physical capacity of the community, and the history of mistrust as limitations to greater collaboration. In these perspectives, collaboration is generally contextualized as participation, rather than power-sharing when solutions continue to operate within the current FMP processes. Through identifying and understanding available solutions, industry and government participants understood that to create better relationships and mutual understanding, there must be greater two-way dialogue. Participants within industry and government noted the need for increased participation, giving recognition to the interdependence and an ensuing need for better relationships. With the recognition of the complexity of FMP processes, government and industry forest managers identified their responsibility to better educate communities on the complex processes and support technical capacities to engage. This can be seen in practice through the Forestry 101 sessions that are being offered in attempt to translate the complex processes to communities. Many industry and government participants suggested the results of greater public education might result in improved public

perception of forestry and increased community technical capacity to participate. Increased capacity is perceived to create more opportunities for communities to participate in the FMP processes and more opportunities to engage in two-way dialogue.

Another common perspective from OMNRF and industry participants suggested that greater access to economic opportunities for communities to increase financial capacity to build resources is needed to support greater participation. The overlapping forest license with the DFMC and ELFN, as well as the RRSA with the OMNRF, were cited as examples of such financial arrangements. Industry participants offered a solution to this problem by suggesting there is a responsibility for the Ontario government to lower regulations and restrictions that limit the time and energy of companies to offer better support for communities. When referring to complex bureaucratic processes, it was often cited that some policies applied to northwestern Ontario are not appropriate for the context due to the distance between policy makers and the area of impact. For example, several government and industry participants commented on the rigidity of environmental considerations for certain species or plants that do not exist in certain local stands, yet broader policies require consideration anyway. The same participants often cited the need to refer to locally relevant science and greater locally relevant policies as one mechanism toward lowered restrictions and increased effectiveness of place-based decisions. This is what Gray (2005) refers to as a fact-finding frame, where conflict is managed by returning to evidence and facts to inform decisions. A prominent theme was the identification of education as a potential solution. The complexity of the FMP process, overburdened community capacities, and a history of mistrust were identified as core problems, which together initiate a frame of educating the public on FMP processes to

increase community capacity for participation and increase public trust or awareness of FMP practices.

All parties perceive the risk of a boom-and-bust economy for their identity and positions creating a basis of shared value, yet the perceived risk is framed in light of economic loss for industry and government participants, but loss of cultural identity for ELFN. It is apparent that actors make decisions based on these framings of risk. Industry and government parties pointed to the need to carry on with decisions despite recognized low participation rates, as forestry at the end of the day is a business dependent on profit. Although many participants recognized this model as flawed, the perceived risk of economic loss prevails as the most significant loss. ELFN chooses whether to participate in FMP processes based on perceived gains for the protection of their cultural values and identity. This means that sometimes the choice not to participate in FMP processes provides greater protection than the choice to participate.

4.5 Impacts of Conflict on Decision-Making

It is well understood that identifying where and why parties' views about the problems converge and diverge is a critical starting point toward promoting relationship-building (Schön & Rein, 1994). By comparing and contrasting some major perspectives that arose within this research, a clear picture of the conflicts is presented (Table 3). There is a divergence in value systems that guide parties' understandings of the goals of management, one guided by constitutional laws, the other by inherent Anishinaabe laws. ELFN's understanding appears to be led from the relationship with land, protection of associated land rights, and the devastating impacts of a boom-and-bust economy on Anishinaabe existence. Industry and government values stem from economic and

scientific understandings, leading to the importance of forestry balancing ecological, social, and economic values while providing economic stimulus to local communities. There is a shared underlying fear among all parties of the impact of an economic “bust” on their own identities. Each party understands that, in some way, there is a need to work better together in order to protect their core identities; yet the need for identity protection also identifies a relative unwillingness to participate in the others’ approach when they contradict the other’s values.

Whereas ELFN participants position the start of negotiation as respecting inherent land rights, industry and government largely framed the issue under the light of further integration of Indigenous participation into existing processes. Solutions posed from ELFN to improve relationships and collaboration mean working to strategically position themselves to have greater authority within existing processes through capacity development and institutional flexibility. The desire for greater authority in decision-making by ELFN leads to a desire to restructure or reimagine the current processes to better support their values and priorities. Industry and the Ministry also note the low levels of trust toward forestry practices; however, solutions are largely confined within the current processes aimed at leveraging forest managers’ understanding of ELFN needs and improving the Indigenous capacity to participate. Industry and government frames generally leave collaboration confined to management strategies, whereas ELFN aims to hold higher position in governance. Indeed, these are incongruent stances that align with very different solutions at different levels within the governance system. Government and industry perspectives focus on management processes to improve participation. ELFN

perspectives, on the other hand, target a governance level to increase Indigenous authority and restructure systems to improve power-sharing.

This chapter first explored a structural level of the governance system through institutional analysis, then the normative and ideological framing of discussions within the negotiation process of cross-cultural collaboration. However, a normative approach to governance does not exist in a vacuum but is intertwined and mutually reinforcing with its structural counterparts (Kooiman & Jentoft, 2009; Ran & Qi, 2019). The following chapter will now synthesize the findings from this frame analysis and institutional analysis to identify the larger challenges to substantive decision-making for ELFN, with links back to relevant literature.

Table 3:*Depiction of the main shared and divergent framings from participant groups*

	<i>ELFN</i>	<i>Industry</i>	<i>OMNRF</i>	<i>Shared</i>
<i>Action</i>	Legal action Internal capacity actions	Forestry 101 Two-way dialogue	Forestry 101 Two-way dialogue	
<i>Strategies</i>	Respect Treaty rights Internal capacity development Institutional flexibility Restructure or reimagine the current processes to better support Indigenous values and priorities	Leveraging forest managers understanding of ELFN needs Improving Indigenous capacity to participate	Improving Indigenous capacity to participate	A need to work together
<i>Goals</i>	Increase authority in forest decision-making Respect inherent land rights	Balance stakeholder values through forestry Increase Indigenous participation in forest decision-making	Balance stakeholder values through forestry Increase Indigenous participation in forest decision-making	
<i>Values</i>	Relationship with land Protection of inherent land rights Devastating impacts of a boom-and-bust economy on Anishinaabe existence.	Economic and scientific basis of understanding Management of land and resources as the way to balance ecological, social, and economic values while providing economic stimulus to local communities.	Economic and scientific basis of understanding Management of land and resources as the way to balance ecological, social, and economic values while providing economic stimulus to local communities.	Fear of forestry decline on identities and livelihood

CHAPTER 5: DISCUSSION

This chapter weaves findings from the institutional analysis and frame analysis in chapter four to identify several broader challenges and opportunities to substantive decision-making for ELFN in forest governance. The challenges can be positioned within Kooiman's (2003; Kooiman et al., 2008) governance theory (Figure 7) who suggests governance takes place at three orders: first-order governance as the problem solving and the creation of opportunities for governance; second-order governance refers to the individual characteristics and maintenance of institutions in governance; and third-order governance as the larger socio-political framework driven by norms. In the figure below, the orders of governance are depicted moving from the inner ring as the first order to the outer ring as the third order.

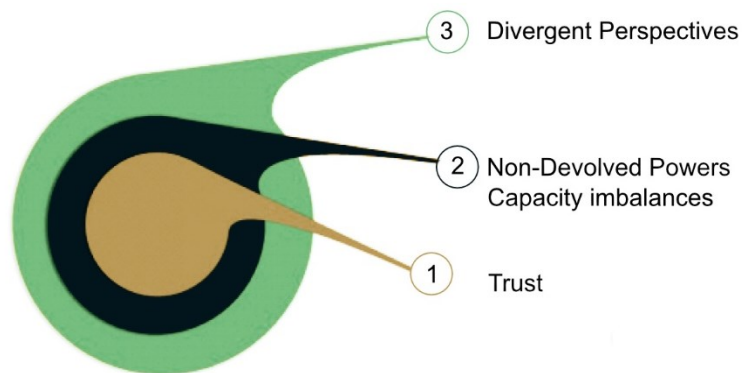


Figure 7:
Challenges to substantive decision-making in forest governing for ELFN as positioned within Kooimans' (2003) orders of governance.

It is clear that low trust affects problem solving at the first order, which is nested within the institutional framework characterized by non-devolved powers from the Ontario government and structural capacity imbalances between actors. Kooiman and Jentoft (2009) suggest that meta-governance (or third-order) includes the norms, values, and principles that are intrinsic to governance systems and shape the framework for how interactions and institutions operate. The meta framework in which the concerned forest governance system operates is guided by divergent understandings of principles, norms, and values. Divergent norms and values are limited or facilitated by institutional processes that ultimately shape the opportunities and problem solving that arise through negotiation.

The following sections will first look at the challenges to substantive decision-making, starting from the challenges positioned at the first-order (trust), as shaped by the structural influences at the second-order (non-devolved powers and capacity imbalance). Finally, the divergent values at the third-order will be explored, which builds the framework for the entire governing process, while simultaneously being shaped by processes within the first and second order. Situating the identified challenges within Kooiman's (2003) orders of governance illuminates how these conditions operate in iteration, rather than in isolation. Doing so also illustrates how power is shaped and reshaped through interactions, constrained or facilitated by structures, and underpinned by norms and values. Facilitators are then identified as they position with the challenges. Within each challenge, capacity strategies are identified that may leverage the identified facilitators and suggest starting points to address the identified challenges.

5.1 Trust

Trust is at the centre of the challenges for actors to engage meaningfully and collaboratively design new processes, as low levels of trust inhibit collaboration and meaningful relationships (Ostrom, 2003; Nadasdy, 2006). It is well understood that trust building is both an ongoing process and a precondition of equitable collaboration (Ansell & Gash, 2007; Gruber, 2010; Hotte et al., 2019). Theories of trust note its dependence on both individual and structural influences (Hotte et al., 2019; Nikolakis & Nelson, 2019; Ran & Qi, 2019). Individual influences can include histories of inequality, discrimination and trauma, whereas structural influences reflect the institutional conditions that confine or facilitate trust such as policy and legislation. In situations of multi-party interaction, trust is also considered to be influenced through interpersonal influences between parties, often emergent through cyclical and repeated interaction. Individual, interpersonal, and structural conditions are thought to operate in cyclically reinforcing patterns (Ansell & Gash, 2007; Nikolakis & Nelson, 2019).

It is apparent in this study that when entering discussions, participants of ELFN feel low levels of individual and interpersonal trust toward SFL holders. It is well noted through participant interviews that, although there are increasing opportunities for greater ELFN authority in the forest sector, there is little faith from ELFN community members that new arrangements will provide meaningful outcomes. Trust building is further eroded by unsupportive institutional conditions that maintain power imbalances in the colonial framework of management. Coupling the low individual and interpersonal trust with structural influences, trust enters a negatively reinforcing cycle.

Suggesting that low levels of trust persist as a main challenge to power-sharing is not to suggest that simply trusting more will increase authority in decision-making. Trust is a process that must be built slowly, earned and shaped over time. The fragile nature of trust means that careful attention to interpersonal and institutional influences on trust must go hand in hand (Hotte, 2020). Interpersonal influences on trust may begin at the level of instructional modifications to hold greater space and recognition of Indigenous experiences and land rights. While industry and government participants noted the impacts of the legacies of colonization on low levels of trust and Indigenous participation, this does not appear to be recognized through the local policy planning documents. The language used centres on Indigenous peoples as stakeholders participating in decision-making rather than people with unique land rights and knowledge from histories of land occupation and use. These actions align with a recommendation of the TRC that emphasized that repairing damaged trust is a critical part of reconciliation by “making apologies, providing individual and collective reparations, and following through with concrete actions that demonstrate real societal change” (TRC, 2015 p.16).

Zurba (2014) explores a framework of collaborative governance which, much like reconciliation, requires parties to learn and contend with systems of the past to establish new ways of moving forward together. The general recognition here is that a first step in this process must be providing a platform for victims of past injustice to voice their experiences so that wrongdoings can be identified, and new systems can be held further accountable. The lessons that can be implemented in the case of ELFN are twofold. First is the creation of space for parties’ experiences to be voiced and heard to increase the

understanding of each other's experiences. Currently, there are few opportunities for learning on neutral grounds, nor are there opportunities to build intercultural competencies. Second, once the experiences have been identified, there must be a greater institutionalized recognition of these experiences and truths such as shifting the language of the FMP documents. At a broader level, the issue of trust as identified here is largely tied to historical injustice and discrimination against Indigenous peoples throughout colonized history that continue to underpin settler resource governance structures.

5.2 Non-Devolved Powers from the Government of Ontario

There are two clear scales through which non-devolved governmental powers can be identified: 1) local level interactions and 2) the broader provincial and federal frameworks of decision-making. First, it is clear that the local scale of decision-making remains largely in the hands of non-Indigenous managers for whom engagement is determined by Western governance structures. This finding predictably aligns with similar studies on collaborative governance (Natcher et al., 2005; Nursey-bray et al., 2010) where it is noted that the continued reliance on settler-structures creates limited discourses of truth that privilege Western knowledge, limit the knowledge and experiences of Indigenous peoples, and ultimately reinforce colonial authority. The existing arrangements within the planning process offer opportunities for ELFN to provide information that may have the potential to influence decisions; however, these mechanisms leave participation confined to pre-determined "advise-only" structures and leave ELFN outside the actual decision-making process. In other words, although consultation and participation are requested of the surrounding First Nation communities, consent is not required. In order for a community to have their concerns and rights

incorporated, they must act in a way that is subject to the provincial laws and therefore the final decision of the governments and ministers.

Industry and OMNRF perspectives on solutions generally suggest that, for the most part, Indigenous participation should occur within the existing FMP process. In contrast, participants from ELFN suggest that the processes themselves need to change in order for their interests and values to be properly recognized. The strategies noted within industry and government participants involve increased participation within the FMP process and associated legislated requirements, as is seen through implementing Forestry 101 sessions or the perceived significance of a CCA and value sharing. These findings are consistent with those of Natcher et al., (2005) who state that non-Indigenous representatives often address uncertainty, either ecological or social, through effective planning, thus limiting solutions within FMP structures. On the other hand, participants within ELFN also identify the need to build capacities to improve participation within FMP structures; however, more weight is given to judicial processes to create meaningful change and leverage Treaty rights. In laying out their typology of Indigenous engagement in forest governance, Wyatt et al. (2013) warn that capacity building acts as a means of leveraging other approaches to collaboration, but capacity building should not be viewed as a form of collaboration on its own.

The divergent understandings of participation and collaboration are further highlighted by the reliance on the term “stakeholder” by industry and government participants when describing Indigenous roles in forest management. Participants of ELFN alternatively referred to their role as rightsholders, in support of partnership and self-determination. This is consistent with the environmental management literature, in

which Indigenous people are commonly referred to as stakeholders rather than recognized as having unique land relationships and rights. von der Porten et al., (2015) explain that the use of “stakeholder” is more than semantics and can undermine the notion of sovereign and non-relinquished nations. As explored in the previous section, both the history of discrimination and current imposition of colonial processes erode the trust of ELFN, yet OMNRF and industry participants appear to approach exclusion and injustice as caused primarily by historical events. Without an adequate acknowledgement of the experiences of ELFN in both the past and present, forest decision-makers fail to recognize the continued impacts of colonialism and may fail to confront the structures and actions of the current systems, thus implying a failure to outwardly recognize the need for shifted and devolved powers.

While local level decision-making and interactions continue to be framed by an unwillingness to devolve and share power, the unwillingness to devolve powers is further entrenched at a provincial level, which dictates the participation mechanisms of the FMP process. Current processes offer space for input and decision-making; however, as noted by most participants, if a community does not respond to requests, the process will continue without input. With the high levels of capacities required by communities to participate and respond appropriately, and the starting points of low trust, it is not uncommon for the large influx of requests to be challenging for a community to meet, thus reinforcing state powers. Furthermore, the ultimate authority with land-based policies is centralized with the provincial governments, leaving any changes in local governing structures vulnerable to changes within provincial structures (Zurba et al., 2016).

The results from this study demonstrate that although larger frameworks give recognition to shared land, there lacks accountable action. Furthermore, the localized scale at which governance plays out appears to lack recognition of the sovereignty of Indigenous Nations in both the structural and normative frameworks of governance, thus leading to a framework marked by ignoring Indigenous self-determination in favour of state processes in forest governance relationships, policies, and decisions.

5.3 Capacity Imbalance

In the case of ELFN, the current institutional arrangements require high degrees of capacities within ELFN to partake in current processes and leave most capacity building as the responsibility of ELFN. ELFN has four forest management units overlapping their TLUA; it is required that First Nations be consulted by the OMNRF where forest management may affect their rights and values. It is also regulated in the FMPM that surrounding First Nation communities be given opportunities to participate in the planning process. This requires large amounts of human, financial, and physical capacity from ELFN. When these capacities cannot be met internally, forest management companies, that adhere to the legislated timeframes and processes, continue with their processes as planned with little ELFN representation and low levels of participation from communities to give feedback on their plans.

It is recognized by the OMNRF and industry participants that capacities to participate in FMP processes are limited in Indigenous communities. In posing solutions, OMNRF and industry suggest increasing financial capacities and knowledge for Indigenous communities to increase their ability to participate in existing processes. This view may perpetuate what Stevenson and Perreault (2008) refer to as the “capacity deficit

model” in which it is often the case that capacities are thought of as needing to be built by Indigenous communities to fit into the pre-existing structures of resource management. This view generally fails to address broader equity in land governance that some Indigenous Nations desire.

It appears that efforts are being made to promote capacity building through efforts such as Forestry 101 sessions and financial operations, but such efforts are commonly under the guise of one-way capacity building. Industry and government need to also build their own capacities to better work with Indigenous peoples. The current institutional design requires high levels of capacity, by which the burden to develop capacities to meet the needs of the FMP process are largely placed on ELFN. Although industry and government participants noted that there is low capacity for ELFN to participate meaningfully, there are few supports to redress imbalances in ways that support ELFN beyond financial and knowledge capacities. Kepkay (2007) notes that building individual human, physical, and financial capitals for Indigenous communities may be of little benefit if attention is not given to the broader institutional conditions that determine how the new capitals can be applied. Participants of ELFN similarly noted that, although financial capacity and compensation are advantageous and desired, having access to more financial resources, particularly ones that are not self-determined, ultimately do not increase decision-making authority. Change must be made to the broader structures that confine decision-making powers to allow ELFN to determine their own ways of financial support and knowledge resources.

It is well noted within the Indigenous capacity building and reconciliation literature that capacity building is not solely an Indigenous interest or responsibility

(Stevenson & Perreault, 2008; Zurba, 2014). Indigenous peoples hold the primary responsibility for self-determined capacity building; however, institutional barriers must be removed for appropriate support of their goals (Kepkay, 2007).

5.4 Negotiating Across Distinct Values and Knowledge Traditions

There is a divergence and incompatibility identified in the actions and solutions taken by ELFN and those from industry and government forest decision-makers. Behind this conflict are distinct value systems that guide each party (refer to table 3). The differences between the parties' ways of knowing leads to more than a simple misunderstanding; rather, it underpins the nature of the conflicts within negotiations between ELFN and the industry and government forest decision-makers. These findings are consistent with other studies of cross-cultural environmental decision-making, where it is noted that confrontation between discourses blocks progress toward sustainable and equitable governance (Dewulf et al., 2011; Nursey-bray et al., 2010). While divergent ways of knowing do not remove the ability to collaborate, there are often increased communication barriers when planning partners come from different knowledge traditions (O'Flaherty et al., 2008; von der Porten et al., 2015). Wheeler et al. (2020) explain that it is both the content of the information and the process for its inclusion that influence management decisions.

As depicted through the institutional analysis, the current system of forest decision-making is largely reflective of Western worldviews and professional or political networks, timelines, and processes. Research on Indigenous resource governance notes that a responsibility is commonly placed on Indigenous peoples to adapt to Western governance frameworks when attempts are made to work together (Diver, 2016;

Nadasdy, 2006). Although some Indigenous communities may find this model desirable, ELFN has expressed its dissatisfaction with the process.

When Indigenous ways of knowing are expected to fit into Western frameworks, communities face challenges to balance sharing their knowledge and furthering self-determined goals, while avoiding knowledge appropriation in Western governance and management processes (Hotte et al., 2019; Wortley et al., 2001; Zurba et al., 2019). A clear example of knowledge appropriation is identified by participants of ELFN who expressed a fear that their knowledge would be misused or misinterpreted when sharing their forest values to support forest management planning processes. Efforts to incorporate Indigenous knowledge and values into management decisions may be well intended, but there are risks when knowledge is used without understanding the expectations of knowledge holders (Wheeler et al., 2020). Misused knowledge continues to undermine trust and reinforce dominant powers. This is consistent with others findings such as O’Flaherty et al. (2008) who suggest that parties from different knowledge traditions may view the same data and facts yet develop diverse interpretations of the meaning and implications of the shared data.

Cross-cultural negotiation requires a focus on how divergent problem definitions and worldviews are attended to in order to gain traction toward mutual understanding and develop shared goals (Nursey-bray et al., 2010). This points to a layered set of challenges involving epistemological accommodation. First, there is limited acknowledgement of each other’s perspectives. Frame theory literature recognizes that a first step toward dispute resolution is to acknowledge that the other party’s perspective is real and credible (Brummans et al., 2008; Dewulf et al., 2011; Gray, 2005). Parties hold a different and

competing starting point for negotiations: whereas ELFN work toward treaty recognition, industry and government forest decision-makers position greater Indigenous integration within the current system as the solution.

Gray (2005) argues that reframing is often challenging without the help of a third party or neutral mediator who does not have direct stakes in the conflict. The use of mediators is one tactic commonly used in conflict management, but research also recognizes the intergroup or social learning that can facilitate reframing and cross-cultural learning (Gray, 2005; Mostert et al., 2007; Zurba et al., 2021). Mostert et al. (2007) note that social learning does not occur if the organizers impose their perceptions on the process. One example is the appointment of former Superior Court Justice Frank Iacobucci as Ontario's representative to mediate and provide recommendations to both parties on the Grassy Narrows First Nation case (OMNRF, 2011). The appointment of Justice Iacobucci was applauded by Grassy, as a move toward new process agreements (Free Grassy Narrows, 2007)

This leads to a second challenge involving the lack of equitable learning spaces or equitable space for two-way dialogue. In order to create equitable negotiations, von der Porten et al. (2015) identifies a need to choose venues and processes of decision-making that reflect Indigenous venues and processes. In reframing literature, it is commonly cited that third party mediators, bridging entities, or the creation of new physical spaces and organizations are some strategies that may support cross-cultural learning (Bullock, 2011; Gray, 2005; Shmueli, 2008). While divergent perspectives do not eliminate the possibilities for collaboration, they do limit respectful and efficient cross-cultural negotiation. The confinement of dialogue and participation to Western controlled systems

limit parties' ability to communicate across cultures and thus limit the ability to establish common goals, trust, and respect.

5.5 Opportunities

5.5.1 Incentives to Learn

It is clear the parties recognize that they do not fully understand each other's goals or processes. For ELFN this is reflected as an internal capacity issue, such as having appropriate staffing and knowledge retention about the FMP processes or knowing the appropriate ways in which to navigate the forest management system. For industry and government, it was noted that forest managers often do not understand community desires, goals, and processes. Gray (2005) notes that in multi-party conflict, without recognition of each other's frame to their sense of safety, identity, and domain, building working collaborative relationships may be impossible as actions will often present as incompatible. Social capital, such as interpersonal relationships and trust as well as social learning, are required for parties to imagine potential gains from collaboration (Gray, 2005).

The recognition that parties must improve their knowledge of the other establishes a basis of mutual learning. Yet, the values behind *why* each party desires to learn diverge. ELFN desires greater expertise on forestry and the FMP processes in order to strategize toward greater influence and authority in decision-making beyond what the FMP process offers. Industry and government, on the other hand, desire knowledge on ELFN processes to change current forest management planning processes to increase ELFN participation. Thus, attempts to create learning are grounded in divergent priorities that result in incompatible action. This is seen through the request for Indigenous communities to

provide values into the FMP process to inform planning, whereas ELFN desires to leverage authority rather than participation. Thus, while there is an existing framework for social learning, opportunities are needed on neutral grounds, meaning processes are needed that are external to the existing methods of the FMP processes. There is a need for the parties to reframe and collectively identify goals, or in other words, to work on relationships. The identification from all actors that there is a need to learn of each other's processes marks a positive starting point, noting incentives to collaborate.

5.5.2 Structural Opportunities

Ongoing changes to forestry in Ontario and across Canada demonstrate optimistic frameworks for equitable forest decision-making where Indigenous communities are positioned to determine their own arrangements of participation rather than accept existing processes. Within this case, the new relationship agreement between ELFN and the OMNRF that is currently in negotiation, as well as the potential to develop CCAs, continue to support opportunities for new arrangements that bridge worldviews and leverage collaboration. Additionally, Domtar has been bought by Paper Excellence, which may present new opportunities for change and opportunity for ELFN to negotiate new arrangements under new management. All of these changes reflect important shifts in institutional design that present increased opportunities to leverage ELFN authority in decision-making and create opportunities to bridge worldviews on forestry.

With a shifting political structure geared toward greater recognition of Indigenous nationhood and sovereignty, there are growing opportunities available through shifting tenure structures (eSFL, LFMC), new relationship agreements, and CCAs. However, these types of arrangements must be founded in common understandings, particularly an

understanding of the Indigenous right to self-determination, in order to sustain their longevity (Zurba et al., 2016). Plummer et al. (2018) note that there has been a strong emphasis on physical and financial capitals in resource governing; however, in transitioning to new governance paradigms that demand greater levels of collaboration and devolved authority, the significance of human and social capitals is elevated.

5.6. Chapter Summary

This chapter illustrated several challenges faced by the concerned parties when negotiating arrangements of collaboration. This chapter also illustrates how frame theory can be used to explore the ideological rationale behind actors' decision-making, while institutional mapping presents the structural framework in which these decisions are made. Through placing these challenges within orders of governance (Kooiman, 2003; Kooiman et al., 2008), the interconnection of such challenges becomes clear as they reinforce one another. While it is clear that ELFN has different perceptions of the needed solutions than the government and industry forest decision-makers, the frameworks in which negotiations and decisions are made leverage the strategies of the current forest managers rather than of ELFN. The outcomes of this cycle continue to challenge trust building, and further erode foundations for relationships when processes are in support of Western values and undermine the decision-making authority of ELFN. The following chapter will summarize the main conclusions from this analysis and identify recommendations for strategies that leverage the identified opportunities to address the challenges.

CHAPTER 6: CONCLUSIONS AND FINAL RECOMMENDATIONS

This chapter will first provide a summary of the work to reiterate how the research objectives were addressed and provide a summary of the main findings. Following the summary, I identify several focus areas in which capacities may be positioned to increase ELFN authority in forest decision-making. The practical and theoretical contributions of this work will then be explored, followed by a brief overview of future directions for research. The final section will address the main limitations of this study.

6.1 Thesis Project Summary

The intent of this study was to support self-identification of strategic ways to increase ELFN authority in forest land decision-making. I undertook a case study of ELFN forest governance in order to answer the following co-developed research objectives:

- 1) outline the current forest decision-making arrangements on ELFN's TLUA;
- 2) explore the role of conflict in forest land decision-making;
- 3) Analyze barriers and facilitators to participation for ELFN within the current framework of land decision-making; and,
- 4) Offer recommendations to ELFN, industry and government toward greater land decision-making authority for ELFN.

The first research objective was addressed through policy review, document review, and interview data to outline how forest governance relationships in the study area are currently structured. The main actors and their interactions were identified to create an inventory of current arrangements. The second objective was then addressed through applying a frame analysis to uncover a normative framework and present a view of the

conflicts behind current collaborative efforts. The third objective was addressed through weaving the findings from the institutional analysis and frame analysis to identify several challenges and facilitators to increasing ELFN authority in forest decision-making. Finally, the fourth objective was achieved through using the identified challenges and facilitators to seek areas in which capacity can be strategically positioned to support ELFN decision-making authority. This will be laid out clearly in the following section. Through addressing these main objectives, this study provided insight into the limitations and opportunities of current structural systems and the interpersonal challenges involved in decision-making to illustrate how capacity strategies can be positioned to improve regional forest governing dynamics.

6.2 Conclusions and Recommendations

The results of this study demonstrate that the discrimination of Indigenous peoples is deeply ingrained in the current forest governance system. Although changes and opportunities are growing, structural and normative discrimination continue to limit and undermine efforts toward greater Indigenous participation and authority. This targets the two overarching themes of this research: 1) the structural governance framework and 2) the normative governance framework. Both themes are inextricably linked and mutually reinforcing, as highlighted using Kooiman's (2003) orders of governance. The structural and normative frameworks of governance iteratively interact with each other to create either enabling or limiting environments. To achieve meaningful shared governance, it is clear that both the institutional and the normative frameworks of decision-making must be addressed.

This thesis first identified a clearer picture of the barriers to meaningful forest decision-making for ELFN. By addressing the barriers and opportunities, this research offers strategic insight into areas where capacities may be built to support ELFN authority. The following sections will identify these strategic focus areas to offer capacity building recommendations to the relevant parties.

6.2.1 Toward a Broader Framework of Co-Existence

Although new structural ways of working together are emerging, ELFN continues to be situated as a commentator subject to the final decision of government and ministry decisions, rather than holding a relationship of mutual recognition and active agency. Smith (2007) identifies a framework of co-management that works on a scale of co-existence to assimilation when Indigenous participants are situated as commentators on state processes. Moving toward a model of co-existence in land decision-making involves greater work toward a nation-to-nation relationship. The RCAP's fourth stage of relationship "Negotiation and Renewal" identify this direction through the negotiation of relationships that fully recognize Indigenous nationhood (RCAP, 1996a). The report identifies four principles at the foundation of a renewed relationship: mutual recognition, mutual respect, sharing and mutual responsibility. Moving toward nation-to-nation relationship requires larger political action through the federal Crown's implementation of the recommendations of the RCAP and the TRC calls to action. A theme within both the RCAP reports and TRC calls to action is the modernization of the Royal Proclamation of 1763 and renegotiation of the treaties to come to a shared understanding as a priority (RCAP recommendations 2.2.4, 2.2.7, 2.2.8 and TRC calls to action 45 and 46). The

RCAP report (1996b) specifically recommends the following be accepted into the Royal Proclamation (1763):

- 1) Aboriginal land rights do not need to be extinguished to achieve a settlement of land claims or to agree to or implement new treaties.
- 2) The federal government's recognition that Aboriginal title is a real interest in land.
- 3) The government's intention to resolve land claims in a manner that reconciles the interests of the broader society with Aboriginal title.
- 4) The government's commitment to resolve questions about the redistribution of lands and resources as expeditiously as possible

Ultimately Canada must find better ways of recognizing Indigenous rights in lands and resources as it is nearly impossible to protect these rights without Indigenous people holding greater authority in land decision making. While this involves the shifting of larger political frameworks to hold greater recognition of both treaty and inherent rights to land in decision making, the following sections will speak to interactions at the local level that may be implemented alongside this larger political action.

6.2.2 Working with Existing Structural Opportunities

It is clear that ELFN must be engaged in forest decision-making beyond what is currently offered. Within the existing structures, there is possibility to explore arrangements through pursuit of a Local Forest Management Corporation, such as the Temagami LPMC, or Indigenous-held Enhanced SFLs such as the Obishikokaang Resources Corporation. These types of arrangements may offer greater authority for

ELFN to decide what happens within the licence area. However pursuing types of arrangements that offer greater authority, also require greater capacities (Wyatt et al., 2013). The capacity building should not be left as a sole responsibility of ELFN, rather there is a need for the OMNRF and industry to assume responsibility for two-way capacity balancing through mutually-discussed supportive activities. Supportive capacity activities must be determined based on regionally specific circumstances and the expressed desires of ELFN. ELFN therefore should continue strategizing about their desired arrangements of decision-making to inform the specific capacity supports needed to achieve their goals. This requires time, expertise and financial capacity for ELFN, which could be a direction this project partnership may continue to support. While ELFN has responsibility to determine what is needed to support their goals, industry and OMNRF have responsibility to incorporate the necessary levels of institutional flexibility to accommodate those needs and account for responsibilities in treaty agreements to share land. This institutional flexibility might look like compensation to sit on planning boards, or an OMNRF-funded liaison from ELFN to translate information between groups.

While negotiating different types of forest governing arrangements, there are several immediate areas in which ELFN can improve their capacities to participate in the current arrangements. Although consultation is noted as an insufficient mode of engagement by ELFN, the pursuit of a Customized Consultation Approach may offer capacity relief in the interim by addressing several immediate needs. It was noted that ELFN is challenged by several concerns with existing FMP consultation including; managing the large influx of consultations, providing Traditional Use information to outsiders, managing the tight timelines of the requested engagements from industry, and operating within the complex

policy and regulated arena of forest planning. The negotiation of a customized consultation plan ultimately remains at consultation level, however it may address some of the immediate capacity concerns by reducing some immediate capacity burdens on ELFN. The OMNRF (2021e) list the following as possibilities for what may be addressed through a CCA;

- 1) How the community is to be notified during the preparation of the FMP
- 2) How information is made available to the community to support the community's review and comment during the preparation of the FMP
- 3) How the community identifies and provides values information
- 4) How the community is to be involved in development of prescriptions to protect those values
- 5) How the community is to be involved in the planning of operations

Although the negotiation of a CCA may offer more effective ways for ELFN to advise, it does not reach the goal of increased decision-making authority. A CCA should not be approached as the only solution, rather one action towards supporting greater authority of ELFN in forest decision-making. Furthermore, there is mistrust from Indigenous communities on the impact of a negotiated CCA should it be negotiated and then not respected. Should a CCA be approached by ELFN, the OMNRF and industry proponent must take it seriously and respect the negotiated processes.

6.2.3 Toward Improving Relationships

This research demonstrated that efforts to establish new ways of working together can be easily eroded by persistent conflict that undermine efforts to work together as such

actions should be positioned at the local level to improve relationships and trust. In order to improve relationships and trust, there should be a continued commitment and effort to learning each other's goals and processes, with recognition that relationship and trust building takes time. While both parties acknowledge there is a need to learn from each other, greater action should be taken to pursue learning opportunities. Government and industry organizations should take greater responsibility to learn the local historical and cultural context of the specific Anishinaabe nations in which they directly work. While the MTA is internal to ELFN, government and industry proponents should be responsible to review the GCT#3 MAI, which is publicly available. Emphasizing face-to-face dialogue may also be useful in expanding interpersonal relationships and facilitating learning from each other.

Further, the current forest planning and management documents do not acknowledge the rights of the Indigenous nations to the land, rather they continue to use language that suggests Indigenous peoples are advisors rather than holding inherent and treaty rights to the lands. This is a foundational step toward adequately recognizing the unique roles of Indigenous peoples as more than stakeholders as well as the acknowledgement of shared land and associated treaty responsibilities. Thus, offering a declaration of recognition and demonstrating the willingness to improve current processes could promote relationship building.

Finally, as this study identified, the current relationships between OMNRF and industry with ELFN are contentious. A third-party mediator may be useful to facilitate negotiations of new arrangements to both preserve the ongoing relationship, and facilitate negotiation towards improving collaboration.

6.2.4 Final Thoughts

While the recommendations of this research are positioned to inform ELFN's direction in terms of forest land and resources, it must be noted that they are influenced by the complexity and diversity of all governing choices. Communities, and Crown governments at large are faced with decisions about health and wellbeing, education, housing and many more critical areas where interaction is necessary. Any form of collaborative action and decision making is an opportunity to forge new relationships and build Indigenous-Crown government capacities toward mutual recognition, mutual respect, sharing and mutual responsibility (RCAP, 1996a). It is an incredibly complex boundary that will always be swayed and influenced by all other governance decisions that may impact capacities of either party. The recommendations here are not positioned as solutions, rather as a starting point in a much larger, complex governance framework.

6.3 Contributions

As this research is pragmatically oriented, its main contribution is to support the ongoing work of ELFN to strategize toward value-based forestry paradigms. By identifying challenges, opportunities, and strategies toward increased decision-making authority, this research provides a starting point for ELFN to strategically approach capacity building. A main theoretical contribution that arises from this research supports the significance of identifying the normative starting point for governance prior to attempting structural problem-solving initiatives. Many scholars warn against the application of collaborative management or governing processes without first addressing

the underlying challenges that relationships are faced with (Diver, 2016; Nadasay, 2006). It became clear that, although structural opportunities exist for ELFN to increase power sharing, the challenges remaining in the normative framework continue to undermine efforts. Engaging in the structural opportunities risks further dividing parties if the goals of collaboration are misaligned. Other research engaged with identifying challenges to equitable collaboration are encouraged to first identify how and where parties' values, problem-solving strategies, and actions are in conf.

6.4 Future Research

This research sets a clearer picture of the challenges of negotiation and thus provides a starting point for ELFN to approach negotiation and strategic capacity building. Future collaborative projects could link ELFN aspirations for forest land decision-making with available opportunities and other case studies. Furthermore, there remains a need to link models of forestry decision-making structures to associated benefits as well as the required capacities to participate. Future strategic work of ELFN would benefit from a clear identification of available arrangements, their associated benefits, and required capacities. This may include exploring a CCA in greater depth. This study has identified a distrust from ELFN toward initiating a CCA; however, the research did not focus specifically on other barriers that may be faced. As the option of these CCAs remain limited through Ontario, there is a need to identify the specific barriers to community pursuit of such an approach. These directions are all areas future directions of this research partnership could approach.

Furthermore, weaving the typology of Wyatt et al. (2013) and Bruyneel's (2007) concept of the Third Space of Sovereignty concepts has proven important for this

research in analyzing strategic participation. Whereas Wyatt et al. (2013) list participation mechanisms within management and governance levels, Bruyneel (2007) highlights that negotiation takes place within these processes but also externally. Thus, it would be useful to create an expanded theoretical framework of Indigenous participation in resource governance to highlight how and when independent strategic actions gain traction toward desired arrangements.

Finally, while the structural frameworks of collaborative arrangements of resource governance are highly researched, the interpersonal dimensions of collaboration and the conflict management aspects of cross-cultural collaborative governance are less documented. There remains a need to link specific interpersonal skills and conflict management skills associated with collaborative governance. This would be useful for government and industry professionals in hiring engagement specialists who possess the necessary skills to build greater trust and relationships with Indigenous collaborators.

6.5 Limitations

A main limitation this study faced was the limited amount of quotable material. There are two causes of this limitation. The first is the remote member-checking through email or phone, to which several participants never responded, and thus I was required to omit direct quotations. Additionally, the participant's organizations are in an active and ongoing process of relationship building, and thus their quotations were carefully redacted via member checking and author interpretation to present issues as constructively as possible. As a result, this thesis could not include as many direct

quotations as I would have liked. However, throughout the paragraphs I more broadly explain the sentiments of participant groups.

Another limitation to note is that my worldviews as a non-Indigenous person working with Anishinaabe ways of knowing and relating to forest decision-making, limit my ability to interpret and document appropriately. This limitation is further entrenched as this project was completed using only distanced communications and engagement. While time spent in the community would certainly have been useful to my own understanding, the project was reworked to provide a broader governance analysis. However, the limitations on my ability to understand another's experience and ideas persists. As such, I state my full responsibility for all interpretations within this paper and take full responsibility for any errors or omissions within this research.

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