Indigenous and Decolonial Futurities: Indigenous Protected and Conserved Areas as Potential Pathways of Reconciliation

by

Justine Townsend

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ABSTRACT

INDIGENOUS AND DECOLONIAL FUTURITIES: INDIGENOUS PROTECTED AND CONSERVED AREAS AS POTENTIAL PATHWAYS OF RECONCILIATION

Justine Townsend
University of Guelph, 2022
Advisor: Dr. Robin Roth

Indigenous Protected and Conserved Areas (IPCAs), a form of Indigenous-led conservation, are gaining momentum in Turtle Island/Canada. While advancing Indigenous and decolonial futurities through IPCAs, Indigenous Nations may encounter various obstacles originating from settler colonial practices, policies, and systems. I draw on political ecology, critical engagements with reconciliation, and insights from my qualitative research to investigate IPCAs as potential processes of reconciliation and thus potentially transformative interventions into mainstream conservation. Unlike state-led parks and protected areas, Indigenous Nations establish and have a primary role governing IPCAs, which center Indigenous priorities, laws, and knowledge. This contrasts with parks and protected areas that have displaced Indigenous Peoples, appropriated territories, and imposed Eurocentric values and governance systems. Crown governments and the conservation sector are increasingly mobilizing reconciliation discourse in the context of conservation, but it is unclear what is or could be reconciled through IPCAs. I conducted community-engaged research with the Tsilhqot’in-led Dasiqox Nexawweź?an IPCA and Kitasoo Xai’xais Stewardship Authority located in Tsilhqot’in and Kitasoo Xai’xais territories respectively (British Columbia). My research approach is informed by critical methodologies including decolonizing, Indigenous, and feminist methods. Key findings include: 1) Insights from previous land use and conservation planning processes reveal the risk of Crown governments and the conservation sector potentially undermining Indigenous governance and IPCAs; 2) IPCAs could be pathways of reconciliation if Crown governments and the conservation sector dismantle the roadblocks arising from settler ontologies and institutions; and 3) In the face of multiple legal hurdles, cultivating decolonial legal pluralism and engaging in legislative reform is feasible, can support Indigenous jurisdiction and governance, and could contribute to reconciliation through IPCAs. This study contributes to emerging decolonial political ecology work in the Global North by bringing the concerns of decolonization and reconciliation into political ecologies of conservation in Turtle Island/North America.
DEDICATION

To all the people who dream another world is possible, one where all peoples and beings thrive.

To the lands and waters that so generously sustain us.
ACKNOWLEDGEMENTS

A heartfelt thank you to all my collaborators without whom this research would not have been so insightful and enjoyable. I am grateful to be collaborating with the Dasiqox Nexwagweżʔan Initiative (Tsilhqot’in territory/British Columbia) and the Kitasoo Xai’xais Stewardship Authority (Kitasoo Xai’xais territory/British Columbia) and look forward to mobilizing the research in dialogue with my partners.

From Dasiqox Nexwagwežʔan, I am especially grateful to the following people: Russel Myers Ross, Roger William, Dr. Jonaki Bhattacharyya, Chief Jimmy Luluu, Marilyn Baptiste, Jenna Dunsby, and Caitlin Thompson. From Kitasoo Xai’xais Stewardship Authority, a big thank you to Chief Councillor Douglas Neasloss, Sam Harrison, and Evan Loveless. To Georgia Lloyd-Smith from West Coast Environmental Law, thank you for sharing your legal expertise for Chapter 5, and friendship.

To everyone involved with the Conservation through Reconciliation Partnership, I appreciate your efforts to create a more relational and just future for conservation, one where Indigenous leadership is understood to be key. Allison Bishop, you are so much more than a Project Manager—the care and sustenance you bring to our work is vital. Finally, to the Leadership Circle and Elder’s Lodge, thank you for your thoughtful and heart-centred direction.

To my advisor Dr. Robin Roth, thank you for being a wonderful support, guide, and co-pilot throughout this journey. You have a superpower of connecting people and making things happen, which the Conservation through Reconciliation Partnership so clearly reflects. To my committee members, Drs. Faisal Moola and Noella Gray, thank you for your support, guidance, and helpful comments on drafts. To Drs. Dan Longboat and Jeji Varghese, thank you for engaging with my work and bringing your questions and encouragement to my defense.

The highlight of my PhD has been the pleasure of collaborating with, and learning from and alongside, all of you.

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Thank you, merci, sechanalyagh noyqxṣn, mahsi cho.
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<td>Assembly of First Nations</td>
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<tr>
<td>B.C.</td>
<td>British Columbia</td>
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<td>CBD</td>
<td>Convention on Biological Diversity</td>
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<td>CBFA</td>
<td>Canadian Boreal Forest Agreement</td>
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<tr>
<td>CIRNAC</td>
<td>Crown Indigenous Relations and Northern Affairs Canada (Government of Canada)</td>
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<tr>
<td>Crown</td>
<td>Federal, provincial, territorial (Canada)</td>
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<td>CRP</td>
<td>Conservation through Reconciliation Partnership</td>
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<td>DRIPA</td>
<td>Declaration on the Rights of Indigenous Peoples Act (Province of B.C.)</td>
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<td>ECCC</td>
<td>Environment and Climate Change Canada (Government of Canada)</td>
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<td>ENR</td>
<td>Department of Environment and Natural Resources (Government of the Northwest Territories)</td>
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<td>Far North Act</td>
<td>Far North Act, 2010</td>
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<td>FPAC</td>
<td>Forest Products Association of Canada</td>
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<td>FPIC</td>
<td>Free, prior and informed consent</td>
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<td>Framework, the</td>
<td>Boreal Forest Conservation Framework</td>
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<td>G2G</td>
<td>Government-to-government</td>
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<td>GBR</td>
<td>Great Bear Rainforest</td>
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<td>GNWT</td>
<td>Government of Northwest Territories</td>
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<td>International Boreal Conservation Campaign</td>
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<td>Marine Protected Area</td>
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<td>Truth and Reconciliation Commission of Canada</td>
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1 Introduction

1.1 “A New Name for a Very Old Relationship”

In July 2019, when Tsilhqot’in leaders and citizens blockaded a road in the central interior of British Columbia (B.C.) to prevent Taseko Mines Ltd. from entering their territories, it was not the Tsilhqot’in’s first blockade. The Tsilhqot’in Nation, composed of six communities, have been resisting colonial and capitalist encroachment in their territories for centuries. In the course of protecting their culture, lands, and waters, the Tsilhqot’in have engaged in direct action, legal proceedings, treaty and reconciliation negotiations, regulatory processes (e.g., environmental assessment and permitting procedures), land use planning, and inter-community collaboration (Youdelis et al., 2021). Alongside the blockade, the Tsilhqot’in National Government (TNG), who supports the six communities in treaty and title negotiations, filed an urgent request to the United Nations (UN) Special Rapporteur on the rights of Indigenous Peoples (Townsend et al., 2019).

The TNG urged UN officials to visit Teztan Biny (Fish Lake) to witness the impending violation of Tsilhqot’in human rights by a Canadian mining company in an area as “sacred to us as a church” (Townsend et al., 2019). Dr. Roger William, Team Coordinator—Community Outreach for Dasiqox Nexwagweźʔan, quoting the late Harry Setah, Xeni Gwet’in Tsil’os Park Ranger and ?Elegesi Quyus Wild Horse Preserve Ranger, explains that the Tsilhqot’in used to live around Teztan Biny and called it their “one stop shop” because of its abundance of berries, medicines, fish, and animals (2020, interview). Despite the area’s ongoing cultural and ecological significance to the Tsilhqot’in, the Province of B.C. approved the construction and operation of a contentious open-pit mine in the area. Although the mine could not be built without the Government of Canada’s approval (twice withheld), the province permitted the mining company to conduct extensive drilling, excavation, and road-building. When Taseko Mines Ltd. attempted to conduct this work in the summer of 2019, they were again met with the Tsilhqot’in’s opposition to this project at the roadblock (Youdelis et al., 2021).
Leading up to these series of events, two Tsilhqot’in communities announced a tribal park in their territories in 2014.\footnote{Dr. William was Chief of Xeni Gwet’in First Nations Government and Russel Myers Ross was Chief of Yunesit’in Government when the two communities announced Dasiqox Nexwagweżʔan in 2014.} Though their motivations were varied, they were largely a response to the lack of assurances from the Province of B.C. and Canada that Taseko’s mining proposal, and potential future proposals, would be prevented.\footnote{The filing of the Aboriginal rights and title case in 1998 and later the establishment of Dasiqox Nexwagweżʔan in 2014 were the communities’ response to the ongoing lack of assurances from the Crown that Tsilhqot’in lands, waters, and title would be protected despite attempts by Tsilhqot’in communities to work with the province. The Declaration of Rights was won in 2012 and in 2014 the Supreme Court of Canada recognized Tsilhqot’in title in a landmark ruling.} Xeni Gwet’in First Nations Government and Yunesit’in Government represent two Tsilhqot’in communities with a Shared Caretaker Agreement encompassing Teztan Biny and the Dasiqox watershed. Together, the communities established Dasiqox Nexwagweżʔan Tribal Park (Dasioqx Nexwagwežʔan), a 3,000 km² “land, water and wildlife management area” (Dasiqox Nexwagwežʔan Initiative, 2022). The Tsilhqot’in word nexwagwežʔan means “it is there for us.” The name reflects how the tribal park “is an expression of Tśilhqot’in self-determination and a means of governing a land base,” which includes protecting ecosystems, revitalizing culture, and building a sustainable economy (Dasiqox Tribal Park Initiative, 2021a). When the communities announced Dasiqox Nexwagweżʔan, they became some of the first in Turtle Island/Canada\footnote{In an effort to decolonize language and geographical place names I use the name of the Indigenous territory or treaty number first followed by the English name. Turtle Island is commonly used to refer to North America, thus, when referring to it I specify whether I mean North America or Canada. The name Turtle Island originates from a creation story about Sky Woman who falls from the sky and is offered sanctuary on a turtle’s back upon which the world is built. This story originates from Anishinaabe and Haudenosaunee peoples of the Great Lakes. While Turtle Island is not a pan-Indigenous name for North America or Canada (indeed a multitude or creation stories exist throughout Turtle Island) it is quite widely used. I use it here to challenge the primacy of the Canadian state as the supposedly undisputed sovereign Nation with authority to govern the lands and waters that came to be known as Canada.} to establish Indigenous Protected and Conserved Areas (IPCAs) as a means of asserting their visions for, and fulfilling their responsibilities to, their lands, waters, and future generations. Although IPCAs are modern adaptations, the Tsilhqot’in have been in relationship with their territories for millennia. Informed by their Elders, the Tsilhqot’in’s choice to use the term “tribal park” represents “a new
name for a very old relationship” (Dasiqox Tribal Park Initiative, 2021a). Recently, the communities have dropped the term “tribal park” in favour of “IPCA.”

IPCAs are gaining momentum in Turtle Island/Canada, present vast opportunities, and face multiple pressures. The opportunities IPCAs advance are varied and include ecological restoration or protection, local economic development, revitalization of culture, language, and Indigenous law, and—potentially—reconciliation among settler and Indigenous governments, communities, organizations and systems (ICE, 2018; Tran, Ban, et al., 2020). Given the conservation sector’s growing awareness of how conservation efforts have disenfranchised Indigenous Peoples, IPCAs present opportunities for the conservation sector to improve relationships with Indigenous Peoples by supporting Indigenous-led conservation initiatives, and through them Indigenous governance. For example, some Indigenous Nations and communities⁴ are mobilizing IPCAs to attract funding and build partnerships with conservation organizations, government agencies, and researchers who want to support Indigenous-led conservation.⁵ However, many Indigenous Nations, like the Tsilhqot’in communities, face pressures from resource extraction and industrial development, financing and capacity issues, and difficulties resulting from ongoing conflicts with the state over jurisdiction and governance.

Since the Tsilhqot’in’s announcement of Dasiqox Nexwagweźʔan, which followed earlier declarations by the Haida Nation on Haida Gwaii and Tla-o-qui-aht Nation on Vancouver Island, many Indigenous Nations have declared, or are considering declaring, IPCAs in their territories across the country. Although IPCAs “represent a strong commitment to long-term conservation” (ICE, 2018, p. 5), corporate entities with Crown (i.e. federal, provincial, and territorial) permits can legally develop or extract resources from many IPCAs, regardless of Indigenous consent. This is due to one of the distinguishing features of IPCAs: IPCAs are protected under Indigenous laws but not necessarily under Crown laws that would help guarantee their protection.

⁴ Henceforth, I refer to “Indigenous Nations” in an encompassing way that includes Indigenous Nations, communities, and governments across Turtle Island/Canada. While the term “Indigenous” is inclusive of First Nations, Métis, and Inuit, I note that some Inuit and Métis communities prefer language that reflects a distinction-based approach (i.e. not being lumped into “Indigenous Nations/Peoples). When referring to specific Indigenous Nations I adopt their preferred naming conventions where known (e.g. "Tsilhqot’in communities” to refer to the six First Nations that make up the Tsilhqot’in Nation).
⁵ It is also worth noting that some Indigenous Nations and Peoples do not refer to their stewardship efforts as “conservation” at all, given how mainstream conservation is implicated in a Western philosophical approach to land management.
Indigenous free, prior, and informed consent (FPIC)—an international human rights standard upheld by federal legislation and provincial legislation in B.C.—is required before resource extraction and development can take place in Indigenous territories (UN General Assembly, 2008). However, Crown governments and corporate interests tend not to observe FPIC when Indigenous opposition disrupts economic progress, despite Canada’s and the Province of B.C.’s efforts to implement the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Thus, Dasiqox Nexwagweʔan could face future threats of mining as well as other impactful forms of development that Tsilhqot’in communities may not want.

The Tsilhqot’in’s struggle to protect their culture, livelihoods, and territory in the face of colonial resource management regimes is a common story in Turtle Island/Canada where many Indigenous Nations with existing, proposed, or potential IPCAs face similar pressures and threats. IPCAs are surfacing tensions within and between Crown governments, Indigenous Nations, conservation organizations, and industry that highlight the challenging nature of reconciliation—particularly when it comes to moving beyond rhetoric into action in conservation. Reconciliation necessitates an examination of prevailing values, norms, stereotypes, and discourses in Canadian society and their impacts on Indigenous Peoples and settler-Indigenous relations. It also requires a reconfiguration of policies, practices, and institutions that perpetuate colonial relations, the marginalization of Indigenous Peoples, and the usurpation or degradation of Indigenous territories. Because IPCAs confront various narratives about the environment, development, and Indigenous-settler relations, they are fruitful sites of engagement for decolonial political ecology in a Turtle Island/Canadian context. IPCAs also test the limits of political will and societal receptivity for reconciliation thereby revealing progress to date as well as progress still needed. In this study, I tease apart these complexities with the aim of supporting both Indigenous-led conservation and reconciliation through IPCAs. As such, the

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6 According to the Department of Justice, “The Government of Canada recognizes that meaningful engagement with Indigenous peoples aims to secure their free, prior, and informed consent when Canada proposes to take actions which impact them and their rights, including their lands, territories and resources” (Department of Justice Canada, 2018). In their Red Paper, “Land Back,” the Yellowhead Institute describes a spectrum of consent that is restorative (centres Indigenous governance and laws), epistemic (respects Indigenous knowledge systems), reciprocal (Indigenous Peoples broker the terms of consent), and legitimate (community-informed) (Yellowhead Institute, 2019).
objective of this research is to investigate IPCAs as potential processes of reconciliation and thus potentially transformative interventions into mainstream conservation.

1.2 Research Context and Rationale

The global conservation community is increasingly recognizing that conservation policy and practice have negatively impacted Indigenous Peoples worldwide and that conservation efforts must meaningfully include Indigenous governance, knowledge, and worldviews (Moola & Roth, 2019). Governments worldwide, sometimes working with conservation organizations, have forcibly removed or displaced Indigenous Peoples from their ancestral homelands to establish parks and protected areas and imposed restriction on the use of their territories, Canada included (Agrawal & Redford, 2009; Binnema & Niemi, 2006; Chapin, 2004; Chatty & Colchester, 2002a; Dowie, 2009; Sandlos, 2008; Stevens, 2014). These actions have negatively impacted biodiversity as well as communities who directly rely on their territories for material and cultural sustenance (West et al., 2006; Wilshusen et al., 2003). Since protected areas enclose lands expropriated from their original inhabitants and stewards, they are “both tools and beneficiaries of settler colonialism” (Finegan, 2018, p. 1). As the Indigenous Circle of Experts (ICE) describe, “the usurpation and dispossession of lands, territories and waters still resonates in the lived realities of Indigenous Peoples across Canada” (ICE, 2018, p. 16). These harms require appropriate redress and an overhaul of conservation practice before reconciliation is possible in this sector.

In Canada, as elsewhere in the world, establishing terrestrial and marine protected areas has been state governments’ main strategy for preserving biodiversity in territories claimed by Crown governments and Indigenous Nations (Figures 1-1 and 1-2). Most of these protected areas were created without the partnership of Indigenous governments and do not recognize Indigenous jurisdiction and law, through this has been changing over the past two decades (K. L. Turner & Bitonti, 2011). Though the motivations for establishing protected areas have shifted since the first Canadian parks were established in the late 19th century (Youdelis et al., 2020), parks and protected areas continue to be promoted internationally as the primary method of area-

7 Presently, there are 48 National Parks/National Park Reserves and hundreds of provincial and territorial parks and protected areas as well as 126 marine protected areas and marine refuges in Canada (Fisheries and Oceans Canada, 2019; Parks Canada Agency, 2020).
based conservation (Adams & Hutton, 2007; Corson et al., 2014). Functioning as a powerful narrative, protected areas reflect “a way of seeing, understanding, and (re)producing the world” (West et al., 2006, p. 252).

**Figure 1-1. Protected areas in Canada, 2021**

Source: ECCC, 2022a

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8 Data is from the Canadian Protected and Conserved Areas Database and is current to December 31, 2021.
The separation of humans (supposedly superior to other species) from nature (over which humans must dominate) is embedded in modernist philosophies that influence mainstream (i.e. Eurocentric) conservation in Turtle Island/Canada (T. Loo, 2001). The notion that conservation is best achieved through uninhabited spaces, or fortress conservation, arises from “nature-people dichotomies” (Büscher & Fletcher, 2020, p. 5) and “colonial rhetorics of ‘wilderness’” (Braun, 1997, p. 22, 2002). Mainstream conservation evokes idealized notions about “pristine” wilderness that alternately promotes landscapes devoid of human presence and romanticized visions of Indigenous Peoples living harmoniously in nature (Braun, 2002; Cronon, 1996; Youdelis et al., 2020). As a result, Crown governments have banned, criminalized, and regulated

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9 Locations of Indigenous communities are from datasets maintained by the Government of Canada’s Crown-Indigenous Relations and Northern Affairs Canada (Artelle et al., 2019).
Indigenous hunting and other cultural and subsistence practices in Canadian protected areas, ostensibly to ensure ecosystem protection (Dragon Smith & Grandjambe, 2020a; T. M. Loo, 2006). Yet research from around the world has shown that protected areas do not consistently achieve the desired results of biodiversity protection or enhancement (Armitage, 2002; Brockington, 2004; Hayes & Ostrom, 2005; Neumann, 1992; Wilshusen et al., 2002).

While Indigenous and local peoples’ livelihoods have been widely construed as antithetical to the conservation of nature, studies have revealed that when Indigenous and local peoples are displaced from protected areas, negative ecological consequences are more likely (Chatty & Colchester, 2002b). Landscapes cared for by Indigenous Peoples represent about one quarter of the planet and overlap with 40% of terrestrial protected areas and intact ecosystems globally (Garnett et al., 2018). A global analysis from 2018 revealed that “Indigenous Peoples often manage their lands in ways that are compatible with, and often actively support, biodiversity conservation” (Garnett et al., 2018, p. 371). Yet not all Indigenous-led conservation is “area-based,” or relegated to specific geographic areas. Contemporary Indigenous-led conservation efforts are diverse, for example including initiatives to re-establish traditional Mi’kmaq canoe routes to foster ecotourism (Bear River First Nation, 2016; ICE, 2018), the multi-faceted work of Indigenous Guardians (Reed et al., 2021), and cultural burning practices (Hoffman et al., 2022). The conservation community’s emphasis on area-based conservation “has resulted in a proliferation of parks that lack demonstrable conservation impact and leave many questions around how Indigenous peoples might play meaningful roles in the future of protected areas” (Zurba et al., 2019, p. 3). Meanwhile, state governments and conservationists increasingly promote capitalist and neoliberal ventures in protected areas, such as tourism and development schemes, despite evidence these can negatively impact ecosystems (Brockington & Duffy, 2010; Büscher et al., 2014; Fletcher, 2012; Youdelis, 2018). As Büscher and Fletcher (2020, p. 19) describe, “Western conservation has always been closely conjoined with capitalist development.” This hypocrisy reveals that parks and protected areas are defined and rationalized in ways that empower some actors and environmental narratives while disenfranchising others.

To date, the co-management of Crown protected areas (e.g. federal, provincial, and territorial parks) has been the primary way for Indigenous Nations to participate in state-led and area-based conservation in their territories. Co-management arrangements—when well
executed—provide a forum for respectfully engaging multiple worldviews, knowledge systems, and cultural practices that inform management systems. However, co-management arrangements vary in terms of the extent of Indigenous participation, and the integration of Indigenous knowledge with conservation science is often ineffective or problematic (N. J. Gray, 2016; Nadasdy, 2003, 2005; Stevenson, 2006; Watson, 2013) despite its importance (Berkes et al., 2007; Popp et al., 2019; Stephenson et al., 2014). Co-management models can reinforce unequal power relations between the state and Indigenous peoples (Nadasdy, 2005; Sandlos, 2014; Youdelis, 2016). IPCAs are poised to overcome these issues since they center Indigenous legal traditions, knowledge systems and governance practices. Indigenous Nations who invite Crown partners to co-manage their IPCAs, as is the case with Thaidene Nënë in the Northwest Territories, may be able to avert these co-management challenges by ensuring their IPCAs remain Indigenous-led. If instead IPCA co-governance is limited to “incorporating Indigenous Peoples into settler-colonial structures and institutions,” opportunities for reconciliation will be jeopardized (Finegan, 2018, p. 4) along with opportunities to advance Indigenous governance as a “mechanism for just and effective conservation” (Artelle et al., 2019, p. 1).

At the current moment, there is an opportunity for mainstream conservation to redirect its nearly 140-year-old course by supporting Indigenous-led conservation and thereby addressing some of the injustices of the past. The material and discursive practices that produce conservation are productively troubled by Indigenous stewardship. Indigenous Peoples have been in relationship with their territories for millennia, adapting their cultures and modifying ecosystems. Indigenous, as well as “convivial,” approaches to conservation understand nature and society to be co-constituted and relational (Büscher & Fletcher, 2019), or grounded in Natural Law, which dictates respectful relationships and reciprocity with all relations (McDermott & Roth, Forthcoming). Indigenous knowledge systems, refined over centuries and millennia and rooted in place, have contributed to sophisticated environmental stewardship systems around the world (Artelle et al., 2018; Berkes, 1999; N. Turner, 2014; N. J. Turner, 2005). Lands managed by Indigenous Peoples are at least as effective as mainstream protected areas at maintaining vertebrate biodiversity, including in Turtle Island/Canada (Schuster et al., 2019). Biological conservation work is more attentive now than ever before to cultural, socio-economic, and political influences (e.g. Artelle et al., 2021; Ban et al., 2017; Ban & Frid, 2018;
Bhattacharyya & Slocombe, 2017; Buxton et al., 2021; S. Dietz et al., 2021; Menzies et al., 2022; Popp et al., 2019; Reid et al., 2021). As part of efforts to advance reconciliation between settler and Indigenous societies in Turtle Island/Canada, the conservation sector is increasingly acknowledging the need to advance reconciliation in its own work.

According to the Truth and Reconciliation Commission of Canada (TRC), reconciliation is about acknowledging past harms, overcoming conflict, and forging “respectful and healthy” relationships (TRC, 2015, p. 6). The Government of Canada established the TRC to address the ongoing impacts of the residential school system on Indigenous Peoples in Turtle Island/Canada. After witnessing over 6000 testimonies of residential school survivors who endured physical, sexual, and emotional traumas after being forced to attend the church-run schools, the TRC released its final report in 2015. The TRC maintains that “reconciliation is not an Aboriginal problem; it is a Canadian one. Virtually all aspects of Canadian society may need to be reconsidered” (p. vi). The Government of Canada accepted the TRC’s report and its 94 Calls to Action. Notably, the government endorsed the TRC’s recommendation to adopt UNDRIP as Canada’s reconciliation framework whereby “Canada’s political and legal systems, educational and religious institutions, the corporate sector and civic society function in ways that are consistent with the principles set out in the United Nations Declaration on the Rights of Indigenous Peoples” (TRC, 2015, p. 21). UNDRIP is an international human rights instrument that sets basic standards for respecting the rights and self-determination of Indigenous Peoples, including their rights to give or withhold consent to developments that would impact them and their territories (UN General Assembly, 2007). As such, UNDRIP has direct implications for the conservation sector who routinely seek to protect ecosystems that are part of Indigenous

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10 Beginning in 1831 and spanning a period of over 150 years, over 150,000 Indigenous children attended these schools and many never returned to their families (National Centre for Truth and Reconciliation, 2022). The TRC (2015, p. 153) concluded that “residential schools were a systematic, government-sponsored attempt to destroy Aboriginal cultures and languages and to assimilate Aboriginal peoples so that they no longer existed as distinct peoples.” The federal government provided approximately $72 million to advance the TRC’s work between 2007 and 2015. In 2007, the government began to implement the Indian Residential Schools Settlement Agreement, the “largest class-action settlement in Canadian history” (CIRNAC, 2021).

11 Despite being non-binding, Canada was slow to endorse UNDRIP, along with the United States, Australia, and New Zealand, lagging behind 144 states who adopted the declaration in 2007 (while 11 countries abstained from voting) (United Nations, n.d.).
territories. Reconciliation, as a state-directed project, and UNDRIP have both been critiqued by Indigenous Peoples in various important ways (see Chapter 4 for a detailed discussion).

As part of its commitment to reconciliation, Canada has been signaling a desire to work with Indigenous Peoples on conservation through recent administrative and funding decisions. The Government of Canada is striving to meet conservation targets by expanding the country’s terrestrial and marine protected areas while attempting to advance reconciliation with Indigenous Peoples (ECCC, 2020a; Zurba et al., 2019). As a signatory to the Convention on Biological Diversity (CBD), the Government of Canada has joined nearly 100 countries by committing to protect 30% of its lands and freshwater and 30% of its oceans by 2030 (ECCC, 2020b), and eventually 50% by 2050, although these targets are non-binding12 (International Institute for Sustainable Development, 2021). This conservation mandate is intensely political since Canadian conservation is plagued by its “dark history” (ICE, 2018, p. 27), and raises jurisdictional questions since Crown sovereignty is contested in 100% of Canada. In recent budgets, the federal government committed $3.65 billion in total for conservation between 2018 and 2026, amounts previously unprecedented (ECCC, 2022b, 2022b). Some of these funds are allocated for Indigenous-led conservation, including the establishment and stewardship of IPCAs and Indigenous Guardians programs.

In 2017, the federal government supported the convening of an Indigenous-led advisory group, the Indigenous Circle of Experts (ICE). ICE’s mandate was to advise the Government of Canada on how it could meet some of their CBD targets, referred to as the Pathway to Canada Target 1 initiative, while advancing reconciliation (Pathway to Canada Target 1, n.d.). The federal budgets and Pathway to Canada Target 1 advance stronger leadership roles for Indigenous Peoples in the development and implementation of conservation policy and practice in the country. Meanwhile, Indigenous Nations, communities, and organizations are exercising greater capacity to engage with decision-makers and civil society in advancing their own conservation initiatives in their territories.

In March 2018, ICE ceremonially transferred their influential report to the federal government entitled, We Rise Together: Achieving Pathway to Canada Target 1 through the

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12 The targets the Government of Canada committed to in their official policy will likely be included in the CBD’s subsequent program of work later in 2022.
creation of Indigenous Protected and Conserved Areas in the spirit and practice of reconciliation. ICE made 28 recommendations for how Canada can achieve its international and domestic obligations to protect 17 per cent of its land and inland waters and 10 per cent of coastal and marine areas by 2020 (earlier versions of CBD targets, which were not met on the terrestrial front). ICE’s overarching recommendation was for Crown governments to support Indigenous Nations to establish IPCAs. ICE described these Indigenous-led initiatives as distinct from mainstream conservation practices that marginalize and displace Indigenous peoples and their knowledge systems. While IPCAs vary in form and function, they share basic characteristics of being Indigenous-led, and informed by Indigenous legal, governance, and knowledge systems (ICE, 2018). IPCAs are generally guided by Indigenous worldviews that emphasize the interconnectedness of species, biophysical processes, cultural practices, language revitalization, and sustainable economies (ICE, 2018; Murray & King, 2012; Tran, Ban, et al., 2020; Tran, Neasloss, et al., 2020; Youdelis et al., 2021). According to ICE, “Indigenous nationhood and self-determination are key to moving ahead in a good way. This is reconciliation.” (ICE, 2018, p. 28).

Through IPCAs, Indigenous Nations are challenging the conservation norms and associated legal frameworks expressed through parks and protected areas, which have been the bedrock of conservation in Canada since the late 19th century. IPCAs have the potential to be generative ruptures in Canadian conservation policy and practice that reposition Indigenous Nations in strong governance and stewardship roles in their territories—something that mainstream parks and protected areas fail to do. Indigenous Nations initiate and govern IPCAs in their territories according to their own laws, customs, and visions. As such, IPCAs do not require state recognition, approval, funding, collaboration, or joint establishment under Crown legislation. As the colonial legacies of conservation are acknowledged, conservation and reconciliation are increasingly coming into dialogue with one another. Crown governments, conservation organizations and practitioners, and academics—as well as many Indigenous Nations—are mobilizing reconciliation as a discourse, a set of practices, and a social critique in various ways. However, for reconciliation in and through conservation to be meaningful, it must move well beyond a superficial “add Indigenous and stir” approach to one that advances transformative change.
One of the strengths of IPCAs is their adaptability and diversity of approaches. I support the agency of Indigenous Nations to define the concept of IPCAs and establish them in locally relevant ways. As a white woman of European descent without ancestral ties to Turtle Island/Canada, I conducted this research to critically engage with the intersections of conservation and reconciliation where conservation is understood as a site of struggle, and reconciliation as a contested project. I aim to uplift the Indigenous leaders, Elders, scholars, knowledge holders, youth, and community members working to secure their futures and the health and abundance of their territories, which benefits all Canadians. I discuss my positionality in this research in detail in Chapter 2. It is my hope that this study supports settler society—particularly Crown governments and the conservation sector—to respond to IPCAs in ways that support Indigenous governance and advance transformative reconciliation.

1.3 Research Questions

While IPCAs are beginning to proliferate, along with claims they are consistent with Crown reconciliation efforts, few studies consider how and why Indigenous Nations are establishing IPCAs, and what factors influence the possibilities for IPCAs to be pathways of reconciliation (Finegan, 2018; Murray & Burrows, 2017; Murray & King, 2012; Tran, Ban, et al., 2020; Tran, Neasloss, et al., 2020; Youdelis et al., 2021; Zurba et al., 2019). Given the limitations of mainstream protected areas to advance Indigenous priorities, along with conservation’s colonial history, it is unsurprising that many Indigenous Nations are wary of establishing state-led protected areas in their territories. This perspective is commonly shared among the Tsilhqot’in communities who pursued an Indigenous-led tribal park (Dasiqox Nexwagwežʔan) over a provincial or federal protected area designation. Moreover, for Indigenous Nations who wish to co-establish a Crown protected area in their territory, the process for doing so can be slow or non-existent. For example, in B.C., there are no legal mechanisms requiring the provincial government to consider the proposals of Indigenous Nations who propose the establishment of a provincially designated protected area in their territory (i.e. a provincial park or conservancy; Protected Areas of British Columbia Act, 2000).

While reconciliation is being increasingly mobilized in the conservation sector and in the context of IPCAs, it is timely to examine these claims in light of the ample critiques of
reconciliation by Indigenous and decolonial scholars. It is also unclear how IPCAs might be a departure from, or influenced by, state-led conservation and land use planning processes that have determined governance processes and environmental outcomes in Indigenous territories—often with controversial outcomes. I have explored these topics through community-engaged research with two research partners who have established IPCAs in their territories. These are the Dasiqox Nexwegweźʔan Initiative (Dasiqox Nexwegweźʔan PCA led by the Tsilhqot’in communities of Xeni Gwet’in and Yunesit’in) and Kitasoo Xai’xais Stewardship Authority (Kitasoo Xai’xais Protected Areas, led by the Kitasoo Xai’xais Nation). I discuss these contexts and partnerships in detail in Chapter 2 (Methods).

**My study is guided by the following overarching questions:** 1) What is motivating Indigenous Nations to establish and govern IPCAs? And 2) How are IPCAs articulating with the discourse and practice of reconciliation?

### 1.4 Conceptual Framework

My research is situated in the field of political ecology and engages with Indigenous, decolonial, poststructural, and feminist epistemologies (theories of knowledge/ways of knowing). I combine political ecological work that analyzes power and politics in conservation governance with work authored by Indigenous and decolonial scholars theorizing about settler-Indigenous relations and reconciliation. These engagements inform my inquiry into how IPCAs are articulating with reconciliation and my approach to community-engaged research. This study contributes to the underdeveloped intersections of decolonial and feminist political ecology, especially in the Global North. As political ecologist Clint Carroll (Cherokee)\(^{13}\) notes, “political ecology has largely passed over Indian Country, which arguably comprises the very foundation of land and property questions in settler colonial societies like Canada and the United States” (2014, p. 36). Similarly, mainstream conservation practice in Turtle Island/ North America, which is embedded in colonial epistemologies, has undermined Indigenous governance, knowledge, and law while appropriating lands for conservation.

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\(^{13}\) I follow Max Liboiron’s (Red River Métis/Michif/Treaty 6 territory) (2021) guidance when referring to and situating authors. I discuss this approach in Chapter 2.
This study contributes to the emerging body of work examining colonial relations and possibilities for transformative reconciliation in Canada. This is fruitful since “the convergences (and divergences) of feminist, decolonial, indigenous, and emergent alternative ecologies have yet to be more explicitly engaged and written” (Rocheleau & Nirmal, 2015, p. 11). I am responding to calls within the field of political ecology to “look near,” or shift the gaze away from remote locations (i.e. the Global South) to the Global North. I am also taking up the call to “look up” towards the “center of political ecological power,” or institutions and systems of oppression (McCarthy, 2005; Robbins, 2002, p. 1510). Much of the political ecology of conservation scholarship has focused on Asia and Africa, while far less attention has been paid to similar dynamics in Turtle Island/North America. To foster these discussions, I engage with analyses of colonial relations advanced by Indigenous and decolonial scholars from multiple disciplines. This supports a critical reading of the colonial legacies of conservation in Canada and of emerging landscapes of reconciliation through conservation. In bringing the motivations of political ecology (i.e. a concern with justice) into conversation with Indigenous and decolonial scholars, I amplify the circumstances constraining possibilities for reconciliation through IPCAs. These are circumstances that—if reconfigured—could advance decolonial relations and therefore reconciliation. By challenging colonial legacies in conservation, planning, and resource management—further challenged by IPCAs and the possible futures they advance—I am contributing to the work of an emergent group of scholars defining and advancing a decolonial political ecology (e.g. Apok et al., 2020; Carroll, 2014; Collins et al., 2021; Moulton et al., 2021; Rocheleau & Nirmal, 2015; Schulz, 2017; Youdelis et al., 2021).

I draw on the framing of futurity, or imagined/imaginable futures, to refute powerful, and often hidden, assumptions that shape visions of our shared (or not so shared) futures. The future and the present are in dynamic relationship, constantly shaping one another. Yet when the future is understood as fixed and inevitable, certain actions appear justified, even necessary. Settler colonialism, predicated on Indigenous erasure and the appropriation of Indigenous lands, assumes a future based on the continuation of these injustices (L. B. Simpson, 2017; Wolfe, 2006) or what others have named settler futurity (e.g. Mackey, 2016; Tuck & Yang, 2012). As Eve Tuck (Unangax̂) and K. Wayne Yang (unmarked) point out, settler futurity is “dependent on the foreclosure of an Indigenous futurity” (2012, p. 14). Settler futurity assumes the continued
occupation and appropriation of Indigenous lands and the supremacy of settler colonial governments, laws, and institutions. Although settler colonialism forms the bedrock of modern Canadian society it is actively rendered invisible to mainstream society and the beneficiaries of colonization, generally whitesettlers of European descent. By contrast, Indigenous futurities are rooted in the refusal of colonialism and coalesce around resurgent Indigenous priorities (Coulthard, 2014; Coulthard & Simpson, 2016; A. Simpson, 2014; L. B. Simpson, 2017; Tuck & Yang, 2014) such as through collective Indigenous self-recognition instead of state recognition (Coulthard, 2014; A. Simpson, 2014; L. B. Simpson, 2017) and refusing dispossession by reconnecting Indigenous Peoples to lands and cultural practices (Coulthard & Simpson, 2016; L. B. Simpson, 2017; Wildcat et al., 2014).

Leanne B. Simpson (Michi Saagiig Nishnaabeg), writing from Nishnaabeg perspective, has been particularly instructive to my understanding of Indigenous resurgence and futurity. Simpson describes a relational understanding of Indigenous futurity in which Indigenous futures are entirely dependent upon what we collectively do now as diverse Indigenous nations, with our Ancestors and those yet unborn, to create Indigenous presences and to generate the conditions for Indigenous futures by deeply engaging in our nation-based grounded normativities. We must continuously build and rebuild Indigenous worlds. This work starts in motion, in decolonial love, in flight, in relationship, in biiskabiyang, in generosity, humility, and kindness, and this is where it also ends. I cannot be prescriptive here because these processes are profoundly intimate and emergent and are ultimately the collective responsibilities of those who belong to unique and diverse Indigenous nations. I don’t want to imagine or dream futures. I want a better present. (2017, p. 246)

I do not wish to centre settler colonialism by positioning Indigenous futures in relation to it. This is true particularly in light of what scholars such as L.B. Simpson have so beautifully articulated about Indigenous futurity arising from Indigenous resurgence and “Indigenous grounded normativities.” Glen Coulthard (Yellowknives Dene) describes these grounded normativities as “modalities of Indigenous land-connected practices and longstanding experiential knowledge that inform and structure our ethical engagements with the world and our relationship with human and nonhuman others over time” (2014, p. 13).

As a white Canadian settler scholar I am well positioned, and ethically obligated given the subject matter, to write about the ways settler colonialism attempts to limit and foreclose Indigenous futurities even as the governments of the day routinely speak about reconciliation. As
Winona LaDuke (Anishinaabe) and Deborah Cowen (settler, Treaty 13 and Dish with One Spoon territory) assert, “colonial theft and unceasing extraction proceed apace, despite, or even through, talk of reconciliation. The crisis is a direct result of an economic system predicated upon accumulation and dispossessions, that denigrates the sacred in all of us” (2020, p. 244). By calling out the practices and policies, institutions, and systems that perpetuate settler colonialism, injustice, and ecological devastation, I aim to facilitate diverse and reconciled futures founded in respect and relational responsibilities to each other and the planet. This approach is consistent with Margaret Kovach’s (Nêhiyaw and Saulteaux) position that “from a decolonizing perspective, the use of conceptual frameworks to reveal privileged epistemologies can work towards instigating change” (2009, p. 43).

1.4.1 Political ecologies of conservation

Political ecology is concerned with the discursive and material effects of power that influence access to the environment and natural resources as well as environmental narratives, which in turn shape practices and policies. As the name suggests, political ecology encompasses ecology and political economy. Political ecologists view environmental issues as socio-economic and political issues shaped by those contributing to their circumstances and defining discourses about them (Blaikie & Brookfield, 1987; Forsyth, 2003). Though a lens of social and environmental justice, political ecologists track the effects of power in the production and circulation of environmental discourses as well as in the material effects these discourses have on human and ecological communities (e.g. Braun, 2002; Lave, 2010; Nadasdy, 2011; Watts & Peet, 2004). In other words, political ecologists are attuned to how environmental knowledge is created, and how and why some forms of environmental knowledge and ways of knowing gain currency while others are marginalized (Forsyth, 2003; M. Goldman et al., 2010; Robbins, 2012). The broad field of political ecology coheres around a shared “theoretical commitment to critical social theory and a post-positivist understanding of nature and the production of knowledge about it, which views these as inseparable from social relations of power” (Bridge et al., 2015, p. 7; emphasis in original). Political ecology is at once a “hatchet” used to deconstruct and critique “dominant accounts of environmental change” as well as a “seed,” nourished by “alternatives, adaptations, and creative human action” that flourishes into “new socio-ecologies” (Robbins, 2012, p. 20).
Within the field of political ecology, I align with feminist political ecologists who take intersectional approaches when examining “the complex interactions among class, race, gender, ethnicity, sexuality, and the environment in terms of rights, responsibilities, knowledges, and social movements” (Rocheleau & Nirmal, 2015, p. 2). Through situated analyses (i.e. subjective verses supposedly “objective” approaches), feminist political ecologists have analyzed conservation and development while making methodological contributions to the field (Cantor et al., 2018; Elmhirst, 2015; M. Goldman, 2020; Harcourt, 2015; Hovorka, 2006; Mollett & Faria, 2013; Nightingale, 2003; Osborne, 2015; Rocheleau et al., 1996; Rocheleau & Nirmal, 2015; Rocheleau & Ross, 1995; Rocheleau & Roth, 2007; Sundberg, 2004, 2004). My own work aligns with a motivation of feminist political ecology “to move beyond critique and to envision alternative futures, not in a fixed and prescriptive way, but in terms of opening up intellectual, political, and practical paths to evolving futures” (Rocheleau & Nirmal, 2015, p. 16). This resonates with my reading of IPCAs as challenging settler colonial—while advancing Indigenous and decolonial—futurities.

A major focus of political ecology is conservation discourse and practice. This includes studies that critically examine conservation as development (Corson, 2010, 2017; Dressler & Roth, 2011; Osborne, 2015; Sundberg, 2004) and environmental rule (Agrawal, 2005; Lunstrum, 2013; McElwee, 2016; West, 2006). Political ecologists have contended that protected areas function as a hegemonic concept (Corson et al., 2014) and a tactic through which modern and colonial states have reterritorialized Indigenous lands and exerted state control (Adams & Hutton, 2007; Nadasdy, 2003; Neumann, 1998; Sandlos, 2014). Conservation can be coercive, militarized, and violent (Bocarejo & Ojeda, 2016; Duffy et al., 2019; Kashwan et al., 2021; Massé & Margulies, 2020; Peluso, 1993), and has physically displaced Indigenous and local peoples around the world (Chatty & Colchester, 2002a; Dowie, 2009; Roth, 2004), Canada included (Binnema & Niemi, 2006; Sandlos, 2008). Other forms of displacement have resulted from rules and regulations that constrain Indigenous livelihoods, practices, and economies in their territories, including the prohibition of harvesting, and the disruption of environmental governance and management systems (Ghimire & Pimbert, 1997; Stevens, 1997; Wilshusen et al., 2003). By framing conservation as compatible with capitalist growth, states and conservation actors have naturalized the enclosure and commodification of ecosystems often while imposing
neoliberal reforms (Büscher et al., 2012, 2014; Corson et al., 2014; Duffy & Moore, 2010; Fletcher, 2010, 2012; Youdelis, 2019).

Political ecologists have engaged with conservation as a site of epistemological struggle where knowledge systems lead to competing management approaches. A major bias underpinning the conventional protected area model, or fortress-style conservation, is the myth that Western conservation science is better equipped than Indigenous knowledge systems for managing conservation values (Adams & Mulligan, 2003; Hutton et al., 2005). Western expertise is typically managerial, bureaucratic and top-down while Indigenous knowledge systems are marginalized or made supplemental to Western knowledge (Agrawal, 2002; Lave, 2010; Nadasdy, 1999). The integration of Indigenous knowledge with conservation science is often ineffective or problematic, for example retrenching unequal power relations between the state and Indigenous peoples (Appleton et al., 2011; McGregor, 2009, 2021; Nadasdy, 1999, 2005, 2011; Stevenson, 2006; Watson, 2013; Youdelis, 2016), despite the documented importance of Indigenous knowledge systems for conservation (Berkes et al., 2007; Stephenson et al., 2014; N. Turner, 2014). Political ecologists have revealed how categories of “nature” and “wilderness” are socially constructed and entwined with discourses of modernity (Braun, 2002; Castree & Braun, 1998, 2001; Youdelis et al., 2020). For example, modernity constructed binaries such as humans and nature, modernity and primitivism, civilized and savage, and so on. The human-nature binary gave rise to the concept of “wilderness” needing “saving” from human use and occupation, a proposition upheld by fortress conservation (Corson et al., 2014; Hutton et al., 2005). IPCAs and Indigenous-led conservation disrupt these binaries by elevating Indigenous knowledge systems that typically advance relational forms of conservation and incorporate cultural and economic practices. While Indigenous Peoples from Turtle Island have long held relational worldviews, only more recently have poststructural social scientists advanced hybridized understandings of human-environment relations.

Engaging with poststructural and feminist epistemologies, many political ecologists have drawn on the concept of socio-natures as alternatives to the binaries promoted with modernity and positivist Western science (Escobar, 2008a; Haraway, 1991, 2004; Latour, 1993, 2005; Whatmore, 2006). Counter to modern ways of thinking influenced by Cartesianism and the positivist-reductionist paradigm, poststructural approaches encourage thinking about “socio-
material worlds as always-emergent heterogeneous assemblages of human and more-than-humans” (Blaser, 2014, p. 50). Networked, or hybridized ways of thinking disrupt the conceptual binaries such as nature/human, wilderness/urban, modern/primitive that infiltrate modern conservation philosophy and policy (Blaser, 2014; Escobar, 2008b; Haraway, 1988, 2004; Harding, 2008; Jasanoff, 2004; Latour, 1993, 2005). For example, Corson et. al. (unmarked; 2019, p. 63) have shown how global conservation governance is “processual, dynamic, and contingent, constituted through constantly shifting assemblages of state and nonstate actors, devices and narratives that collectively configure fields of governance.” Political ecologists drawing on poststructural epistemologies reject positivist understandings of reality, truth, and knowledge, positing instead that multiple realities exist and knowing them is always partial, embodied, and situated. These poststructural and feminist contributions equip decolonial researchers with tools for working respectfully across cultural contexts. Yet, as Zoe Todd (Métis/otipemisiw; 2016, p. 4) has pointed out, it is crucial that scholars embedded in Eurocentric canons and philosophies appropriately recognize the often overlooked contributions of Indigenous epistemologies, otherwise ontology (nature of reality/questions of being) may be “just another word for colonialism.”

1.4.2 Settler-Indigenous relations and reconciliation

Scholarship that unpacks the ideology of settler colonialism and exposes how it continues to play out is illuminating for my study. Settler colonialism, distinguishable by settler colonizers staying in colonized territories, is an ongoing structure and ordering logic, not a temporally bound event (Wolfe, 2006). Audra Simpson (Mohawk; 2016b, p. 440) describes settler colonialism

as an analytic, as a social formation, as an attitude, as an imaginary, as something that names and helps others to name what happened and is still happening in spaces seized away from people, in ongoing projects to mask that seizure while attending to capital accumulation under another name.

I use the encompassing term “settler” to include individuals residing in Indigenous territories in Turtle Island/Canada who trace their ancestry to other continents. Following David MacDonald (Trinidadian Indian/Scotland; 2020, p. 5), I sometimes distinguish between White settlers of European descent as opposed to “settlers of racialized origin, based on the inherent racial
hierarchies on which the settler state was constructed and still depends.” Racism is tightly bound with colonialism where both influence the opportunities available for groups of people based on race. As Robin DiAngelo (White; 2021) sums up, “systemic racism consistently works to the benefit of white people overall and to the disadvantage of BIPOC people overall.”\textsuperscript{14} (pg. 43, emphasis in original). Drawing on DiAngelo’s work on white fragility, Dina Gilio-Whitaker (Colville Confederated Tribes; 2018) notes that “settler fragility is the inability to talk about unearned privilege—in this case, the privilege of living on lands that were taken in the name of democracy through profound violence and injustice.”\textsuperscript{15} By only superficially attending to processes of decolonization and reconciliation, white settlers ensure dominant relations of power that benefit them, along with racist tropes, remain intact (Slater, 2019; Tuck & Yang, 2012). Thus, the pejorative “Indian Problem” is a “fictional construct” more aptly named a “Canadian Problem” (McGregor, 2018a, p. 14) or a “settler problem” (Mackey, 2016, p. 13 drawing on Epp 2003 and Regan 2010). Similarly the “challenge” Indigenous-led conservation presents to mainstream conservation is to confront a colonial problem with roots in settler ontologies and land appropriation. Working through these settler-colonial dynamics is essential to decolonial political ecology in Turtle Island/Canada.

A diverse and multi-disciplinary body of literature authored by Indigenous and decolonial scholars engages with settler-Indigenous relations and reconciliation in Turtle Island/North America. Scholars have tackled the machinery of settler colonialism and prospects for decolonization (Gaudry & Lorenz, 2018; Lewis, 2017; Wolfe, 2006), allyship and solidarity (Boudreau Morris, 2016; Hunt & Holmes, 2015; Kluttz et al., 2020; Regan, 2010), Indigenous resurgence (Alfred, 2005, 2005; Corntassel & Holder, 2008; Manuel, 2017; L. B. Simpson, 2011, 2017), academia and pedagogy (Gaudry & Lorenz, 2018; D. B. Littlechild et al., 2021; McGregor, 2017; Rice et al., 2022; Wildcat et al., 2014), citizenship (A. Simpson, 2014), politics of recognition (Coombes, 2020; Coulthard, 2007, 2014; Daigle, 2016; Povinelli, 2002; Short, 2005), settler anxiety (Mackey, 2016; Slater, 2019), the links between resource extraction, capitalism, and colonialism (Bernaure & Roth, 2021; Pasternak & Dafnos, 2018; Preston, 2013), reconciliation as re-traumatizing spectacle (Daigle, 2019; National Centre for Truth and

\textsuperscript{14} BIPOC refers to Black, Indigenous, and people of colour.

\textsuperscript{15} Gilio-Whitaker is speaking here about the settler colonial context in the United States.

Cautionary tales and convincing critiques of reconciliation abound in Indigenous and decolonial literature confronting reconciliation. Common sentiments include that, at best, “reconciliation between Indigenous peoples and the Crown still remains a long distance down the road” (J. Borrows, 2015, p. 704) and at worst, reconciliation is a “seduction package” (A. Simpson, 2016a), a “means extinguishment of [Indigenous] title and rights” (Manuel, 2017, p. 202), and a form of recolonization (Alfred, 2016). Indigenous and decolonial scholars have challenged the foundations of reconciliation which are consistent with liberal discourses about multiculturalism associated with rights and recognitions granted or withheld by the state, where multiculturalism is linked to assimilation (MacDonald, 2020; Short, 2005; A. Simpson, 2016b; Wakeham & Henderson, 2013). Others have problematized state apologies that lack corresponding strategies of accountability while containing Indigenous calls for radical redistributive justice and self-determination (Alfred, 2009; Corntassel & Holder, 2008; George, 2020; Manuel, 2017; Wakeham, 2012). As a “contested social project,” reconciliation efforts in settler colonial countries like Canada are marred by the fantasy of *terra nullius*, which is fundamental to nationalism in settler colonial countries like Canada (Cash, 2004, p. 165). *Terra nullius* was central to the 15th century Doctrine of Discovery deployed by imperial Britain and Spain to justify their colonization of the so-called empty and primitive Americas. Though the TRC has called on Canada to eradicate the vestiges of the racist and colonial legal decree, the Doctrine of Discovery underpins Canadian legislation and is “alive and well” (J. Borrows, 2015, p. 726; Lightfoot, 2020; TRC, 2015). Taken together, these critiques leave one wondering, under what conditions might reconciliation flourish in Turtle Island/Canada?
The decolonial literature providing optimistic accounts of reconciliation is sparse but illuminates various paths where justice and transformation are both the steppingstones and the destination. Some reconciliation scholars describe a key dynamic in the reconciliation field is one of “hope turning to despair” over “the new ways in which colonial assumptions are able to reproduce themselves in policy and in practice” (Clark et al., 2016, p. 2). As the TRC pointed out, “Reconciliation is going to take hard work. People of all walks of life and at all levels of society will need to be willingly engaged” (TRC, 2015, p. 316). I agree with Aimée Craft and Paulette Regan’s (Anishinaabe-Métis/Treaty 1 territory and non-Indigenous Canadian settler respectively) assessment that “reconciliation is not only an ultimate goal but a decolonizing process of journeying in ways that embody everyday acts of resistance, resurgence, and solidarity, coupled with renewed commitments to justice, dialogue, and relationship building” (2020, p. xi ). In her “defence of reconciliation,” Victoria Freeman (European ancestry) argues that reconciliation involves both settler and Indigenous populations “restoring interconnectedness and reciprocity at all levels,” reconciling the past, and moving forward together—albeit in different ways (2014, p. 216). For white settlers, this involves “unsettl[ing] the settler within” (Regan, 2010) and unpacking the invisible “backpack” of white privilege (i.e. racially conferred advantages; McIntosh, 2005; McIntosh, 2015). Some scholars call on settlers, especially white settlers, to embrace the discomfort arising from the truth of colonialism, and its ongoing socio-economic and environmental impacts that influence the present and possible futures (Freeman, 2014; Mackey, 2016; Slater, 2019). Scholars who support a nation-to-nation relationship sometimes point to early treaties, from which we have strayed, that offer blueprints for peaceful co-existence (Craft & Regan, 2020; McDermott & Roth, Forthcoming). Others emphasize the importance of the state fulfilling UNDRIP (Lightfoot, 2020). Important for my study are relational understandings of reconciliation that advocate for respectful relationships and reciprocity with the Earth and our non-human kin (Freeman, 2014; ICE, 2018; McGregor, 2018b; Ross, 2019; TRC, 2015).

To interrogate how IPCAs are articulating with the discourse and practice of reconciliation, I engage with these critiques of—while imagining possibilities for—reconciliation. The abundant critiques of reconciliation are a foundation for envisioning the kinds of changes and actions needed to support reconciliation. Because of the urgency of the
interconnected biodiversity, climate, and colonial crises, as well as the need for reconciliation research (TRC, 2015), there is ample room for political ecological work in this space. Yet, political ecologists have been slow to interrogate processes of colonization, decolonization, and especially reconciliation in the context of conservation in Turtle Island/Canada. For settler scholars of non-Indigenous ancestry, contributing to this underdeveloped field responds to the call for settlers to “engage in decolonial acts and processes of reconciliation in ways that do not place the burden of change or relationship building more heavily on Indigenous peoples” (Craft & Regan, 2020, p. xiii; D. B. Littlechild et al., 2021). It is thus my hope that this study elevates the inspiring work Indigenous Peoples are undertaking to advance Indigenous futurities, while identifying and interrogating the relational, pragmatic, and systemic obstacles that impinge on IPCAs and Indigenous self-governance. I aim to help chart a course for settler society—especially at organizational and institutional scales—to respond to IPCAs in ways that support Indigenous, decolonial, and ecologically abundant futurities.

1.5 Dissertation Overview

I wrote this dissertation in manuscript form, in dialogue with my community collaborators, with the intent of publishing a shorter version of each empirical chapter in peer-reviewed journals (i.e. Chapters 3 to 5). There is therefore some necessary repetition between the empirical chapters, particularly around the context and definitions of IPCAs and the rise of Indigenous-led conservation in Turtle Island/Canada, as well as with positionality statements in the methods sections. Given the importance of decolonial methods to this research, the methods chapter (Chapter 2) includes my reflections and analysis on the co-production of knowledge, relational accountability, and reciprocity in research. The subsequent three analytical chapters address different facets of IPCAs and the factors enabling and constraining them. In Chapter 3, I trace the emergence of IPCAs as Indigenous-led governance initiatives that offer alternatives to state-led land use planning processes. I argue that the latter have offered limited opportunities for Indigenous governance and the assurance of Indigenous futurities. In Chapter 4, I engage with IPCAs as potential pathways of reconciliation and identify some of the key obstacles Indigenous
Nations face as they establish and advance their IPCAs. I then investigate legal and legislative hurdles and potential innovations that could support IPCAs in Chapter 5 where I draw on case studies in the Northwest Territories/Akaitcho Dene territories and Aotearoa New Zealand. Drawing together insights from the dissertation, in Chapter 6, Conclusions, I reflect on how I answered the research questions, identify contributions of the study, and outline future directions.

Together, the chapters depict aspects of IPCAs (origins, motivations, challenges, and potential) that paint a more fulsome picture of the emerging political and ecological landscape of IPCAs in Turtle Island/Canada. Chapter 4 (IPCA and reconciliation) responds to the research interests of the Dasiqox Nexawgewźʔan Initiative (Tsilhq’ot’in communities of Xeni Gwet’in and Yunesit’in) and my academic partner, the Conservation through Reconciliation Partnership (CRP). Chapter 5 (legal constraints and innovations) is a community-directed study responding to the research needs and requests of Kitasoo Xai’xais Stewardship Authority (KXSA; Kitasoo Xai’xais Nation). As a result of these collaborations, many of the examples I discuss are situated in B.C.. However, the research scope is national since the conservation and reconciliation landscapes are shaped by national actors, policies, frameworks, and initiatives. As such, the findings are relevant to Indigenous Nations, Crown agencies, and the conservation sector (i.e. conservation organizations and practitioners and researchers) across Turtle Island/Canada. This dissertation is one aspect of knowledge co-production involved in this study. Given the community-engaged nature of this research, I am implementing various knowledge mobilization activities to share this research in broad and targeted ways. In doing so, I am attempting to make the research results accessible and useful to Indigenous Nations as well as the conservation sector. More detail about the layout and arc of the dissertation is included below.

Chapter 2: Methods

Overview

In this chapter, I discuss the methodological approach I used to investigate IPCAs as potentially transformative interventions into mainstream conservation, and as processes of

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16 Prior to publication of Chapter 4, I will include some of the description of Dasiqox Nexawgewźʔan IPCA and Kitasoo Xai’xais Protected Areas (Sections 2.5.1 and 2.5.2), including maps, into the manuscript for additional context.
reconciliation. I situate myself in this work and contextualize my approach within critical methodologies. An important part of this research are the partnerships that brought this study to life. I include a discussion of my collaborations with the Dasiqox Nexwagweʔan Initiative (Tsilhqot’in territory/B.C.) and KXSA (Kitasoo Xai’xais Protected Areas/B.C.). These collaborations informed my research questions and the content in Chapters 3 through 5. I also discuss how my involvement with the CRP enhanced my research partnerships, study design, and methods, and contributed to my development as a decolonial conservation researcher and practitioner. Finally, I summarize my data collection and analysis and ongoing knowledge mobilization efforts.

**Chapter 3: From land use planning to Indigenous-led conservation: Insights from the Great Bear Rainforest, the Canadian boreal, and Ontario’s Far North**

**Abstract**

Indigenous Protected and Conserved Areas (IPCAs) are a newly recognized form of Indigenous-led conservation in Turtle Island/Canada. Compared to Crown-led environmental governance processes like land use planning, IPCAs offer greater opportunities for Indigenous Nations to advance their governance priorities and visions for their lands, waters, and communities. Indigenous Nations establish IPCAs under their own laws and choose whether or not to partner with Crown governments and environmental non-governmental organizations (ENGOs). Increasingly, the conservation sector and Crown governments are supporting IPCAs as a means of expanding protected area coverage while advancing reconciliation with Indigenous Peoples. I argue that insights from past processes offer clues for how Crown governments and ENGOs can support, and not undermine, Indigenous governance and IPCAs. I analyze the planning processes associated with the 2016 Great Bear Rainforest Agreement in British Columbia, the 2010 Canadian Boreal Forest Agreement, and the *Far North Act, 2010* of Ontario, focusing on the factors that shaped the participation, governance, and authority of Indigenous Nations and the planning outcomes. The shortcomings of these processes are symptomatic of Western land use planning models and related to oversights by Crown governments and the conservation sector. To help actualize a “paradigm shift in conservation” ENGOs and Crown governments can implement the guidance of Indigenous organizations, UNDRIP, and best
practices in engagement and ensure lessons from past processes are fully integrated. Otherwise, as recent processes suggest, the Crown governments and the conservation sector risk asserting a new array of colonial influences that could undermine or coopt Indigenous-led conservation.

**Chapter 4: Indigenous and Decolonial Futurities: IPCAs as Potential Pathways of Reconciliation**

**Abstract**

Federal, provincial, and territorial governments, the conservation sector, academics, and some Indigenous Nations and communities are framing Indigenous Protected and Conserved Areas (IPCAs)—a newly recognized form of Indigenous-led conservation in Turtle Island/Canada—as advancing reconciliation between Crown governments, the conservation sector, and Indigenous Peoples. Yet it is often unclear what is being, or could be, reconciled through IPCAs. Though highly diverse, IPCAs are advanced by Indigenous Nations and communities who protect them, with or without partners, according to their Indigenous knowledge, legal, and governance systems. IPCAs may be expressions of “generative refusal,” visions of Indigenous futurities, and commitments to uphold responsibilities to the lands, waters, and past and future generations. IPCAs refuse settler colonial ontologies including the expectation of ongoing white settler privilege, which relies on the continued appropriation of lands and resources. By examining the practical, relational, and systemic challenges Indigenous Nations and communities advancing IPCAs encounter, I reveal opportunities for Crown governments and the conservation sector to cultivate decolonial responses that support IPCAs. Indigenous Nations and communities advancing IPCAs may face challenges with resource extraction, laws and legislation, financing, relationships and capacity, and jurisdiction and governance. I contend that IPCAs could be pathways of reconciliation if Crown governments and the conservation sector—in response to the requests of specific Nations and communities advancing IPCAs and Indigenous policy recommendations—support IPCAs to flourish. This requires dismantling the roadblocks arising from settler ontologies and institutions. Thus, not only could Indigenous futurities be advanced, but we might also cultivate decolonial futures in which all peoples and species can thrive.
Chapter 5: Legal innovations support Indigenous Protected and Conserved Areas: Examples from Canada and Aotearoa New Zealand

Abstract
The Province of British Columbia (B.C.), like most jurisdictions in Canada, currently lacks a proactive policy and legal framework that recognizes and supports the establishment of Indigenous Protected and Conserved Areas (IPCAs) by Indigenous Nations and communities in Turtle Island/Canada. Indigenous Nations have inherent authority to establish IPCAs under Indigenous laws; however, without additional protection afforded by Crown policy and legislation, IPCAs can be vulnerable to resource extraction and development. Indigenous Nations who are establishing and governing IPCAs in B.C. have faced multiple legal challenges. To overcome some of the limitations of existing protected area legislation, some Indigenous Nations in B.C. and Canada have pursued a multiple designation approach that uses Indigenous legal orders to establish IPCAs and Crown legislation to establish Crown protected areas. Together, these designations can be mobilized to advance legally pluralistic approaches and strong co-governance models. I investigate two recent protected area acts that have been used to advance IPCAs and innovative co-governance models: the 2019 Northwest Territories Protected Areas Act (Canada) and the 2014 Te Urewera Act (Aotearoa New Zealand). This analysis reveals that establishing new, or amending existing, legislation in Canadian jurisdictions like B.C. to support IPCAs is feasible, can support Indigenous jurisdiction and governance, and could contribute to broader goals of reconciliation in the areas of conservation and law by advancing legally pluralistic approaches.

Chapter 6: Conclusions
In the concluding chapter, I discuss the key findings and insights from the research in relation to the research objective and questions. I discuss motivations for establishing IPCAs, IPCAs and articulations with reconciliation, IPCAs and Indigenous and decolonial futurities, and reflect on the advancement of decolonial political ecology. I also identify contributions of the research, discuss the limitations, and outline future directions.
2 Methods

In this chapter, I discuss the methodological approach I used to investigate IPCAs as potential processes of reconciliation and thus potentially transformative interventions into mainstream conservation. I situate myself in this work and contextualize my approach within critical methodologies. An important part of this research is the partnerships that brought this study to life. Thus I include a discussion of my collaborations with the Dasiqox Nexwagweźʔan Initiative (Tsilhqot’in territory/B.C.) and Kitasoo Xai’xais Stewardship Authority (KXSA; Kitasoo Xai’xais Protected Areas/B.C.). These collaborations informed my research questions and the content in Chapters 4 and 5. I also discuss how my involvement with the Conservation through Reconciliation Partnership (CRP; CRP, 2022) enhanced my research partnerships, study design, and methods, and contributed to my development as a decolonial conservation researcher and practitioner. Finally, I summarize my data collection and analysis and ongoing knowledge mobilization efforts.

2.1 Research Approach and Questions

My research design and methods are shaped by a respect for multiple knowledge systems which contributes to decolonizing research practices and to the advancement of decolonial political ecology (Apok et al., 2020). Like most graduate students in Canadian universities, my academic training is grounded in a Eurocentric pedagogical model. This model emphasizes written over oral knowledge systems, specific citational and legitimizing practices, and particular kinds of expertise and academic rigor. However, some of the most meaningful experiences in my studies have been the Indigenous, land-based, and ceremonial gatherings I was invited to participate in through my collaborations with Indigenous communities and the CRP. Whereas academic merit is judged almost exclusively on intellectual contributions, my engagement with Indigenous spaces has welcomed (not just theorized) emotional, somatic, and spiritual dimensions of being and learning. These Indigenous and decolonial spaces disrupted and complemented conventional academic teaching and learning practices. For example, Indigenous spaces, systems, and customs encouraged relationships, reciprocity, and responsibilities to research partners, colleagues, community, and the lands and waters as well as showing up as a whole person. By contrast, academic settings encouraged achievements such as numbers of
papers published, conferences attended, scholarships awarded, courses taught while emphasizing intellectual engagements and professionalism. I found that the former encourages more personal and relational engagements whereas the latter emphasizes individualism and reduces vulnerability, openness, and connection, which are all critical to relationship-building. My work in and across Indigenous and academic spaces deepened my appreciation for Indigenous knowledge systems, cultures, and ways of knowing and being. These experiences, combined with the methodologies described here, informed my answers to the research questions posed by this study:

1. **What is motivating Indigenous Nations to establish and govern IPCAs?**
   a. How are some Indigenous Nations engaging with IPCAs to articulate their goals, be they ecological, political, legal, cultural, socio-economic, or otherwise?
   b. In what ways are IPCAs a departure from previous state-led land use and conservation planning processes?

2. **How are IPCAs articulating with the discourse and practice of reconciliation?**
   a. How are some Indigenous Nations articulating reconciliation in the context of IPCAs, and what are their calls to action?
   b. What are the enabling and constraining factors that influence IPCAs as processes of reconciliation?
   c. In what ways are IPCAs bringing together multiple actors to support Indigenous-led conservation, or to collaborate on governance, and to what extent is this supporting, or could this support, reconciliation?
   d. How might IPCAs cultivate Indigenous and decolonial futurities?

2.2 **Situating Myself and the Research**

Feminist and Indigenous scholars have established that all knowledge is partial and that recognizing our positionality, acknowledging our relations, and embracing a situated objectivity is a more honest and respectful approach than attempting to be removed and objective (e.g. Haraway, 1988; Kovach, 2009; TallBear, 2014). As a second generation Canadian, and a white woman of European descent benefiting from multiple privileges (e.g. racial, economic, and educational), my perspectives on settler-colonialism and Indigenous-led conservation are
refracted through my identities and experiences. I belong to the first generation in my family to be born in Turtle Island/Canada\(^{17}\) and have developed a deep affinity for the lands and waters I call home. For most of my life I have lived in the Coast Salish territories of the kʷikʷƛ̀əm (Kwikwetlem First Nation), Tsleil-Waututh Nation, Katzie First Nation, xʷməθkʷəy̓əm (Musqueam Indian Band), Sḵwx̱wú7mesh Úxwumixw (Squamish Nation), and Qayqayt First Nation. In the absence of land-based connection and kinship ties to my ancestral homelands, I am learning how to belong to, and be in right relationship with, my home and all its inhabitants. As someone living in territories that Indigenous Peoples have been stewarding since time immemorial, I am committed to being mindful of my impacts in all circles of my life and working to improve settler-colonial relations and ecological health and well-being.

Prior to commencing this research in 2017, I worked for nearly eight years as an environmental consultant supporting industry to consult and engage with Indigenous and local communities as part of environmental assessment processes in Turtle Island/Canada. I observed that opportunities for Indigenous Nations to engage in major regulatory processes determining the future of their territories were significantly limited. To many Indigenous Nations, the environmental assessment process forecloses conversations, or inadequately addresses, topics of interest such as cumulative impacts, Indigenous governance, and alternative economic pathways. In contrast, the holistic premise of Indigenous-led conservation and IPCAs offers a promising pathway for Indigenous Nations asserting their governance, jurisdiction, authority and assuming their responsibilities to their territories. I am inspired by Indigenous-led conservation and IPCAs because of their provocative interventions into status quo conservation. Through IPCAs, Indigenous Nations are challenging persistent modes of environmental governance—from resource extraction to mainstream planning and conservation—that disenfranchise Indigenous

\(^{17}\) In an effort to decolonize language and geographical place names I use the name of the Indigenous territory or treaty number first followed by the English name. Turtle Island is often used to refer to North America, thus, when referring to it I specify whether I mean North America or Canada. The name Turtle Island originates from a creation story about Sky Woman who falls from the sky and is offered sanctuary on a turtle’s back upon which the world is built. This story originates from Anishinaabe and Haudenosaunee peoples of the Great Lakes. While Turtle Island is not a pan-Indigenous name for North America or Canada (a multitude or creation stories exist throughout Turtle Island) it is quite widely used, including in some conservation circles. I use it here to challenge the primacy of the Canadian state as the supposedly undisputed sovereign Nation with sole authority to govern the lands and waters that came to be known as Canada.
Peoples and perpetuate systemic colonialism and racism. These insights are further informed by my private consulting practice and my work with an Indigenous-led organization (IISAAK OLAM Foundation) whose mission is to empower the advancement of IPCAs across the country. In my private practice I have worked with First Nations who are exploring the establishment of IPCAs or other protected area arrangements, and with a BC Parks unit who is incorporating input from Indigenous Peoples into climate change adaptation planning in protected areas. In my work with IISAAK OLAM Foundation, I have been involved in relationship building with First Nations-, Métis-, and Inuit-led IPCA initiatives across the country and supporting these initiatives to share their stories on a website dedicated to IPCAs, the IPCA Knowledge Basket (https://ipcaknowledgebasket.ca).

I write from the perspective of someone interested in challenging the power relations and systemic barriers that constrain Indigenous-led conservation and broader processes of decolonization and reconciliation in Canada. Consistent with a critical political ecology approach, I engage with particular sites and processes of conservation to confront the power relations and factors influencing them at multiple scales (e.g. local, provincial, national, and to some extent global). I am also concerned with epistemological and ontological questions about conservation and reconciliation. I engage with the politics of knowledge related to whose knowledge, values, and worldviews are being circulated and promoted, as well as repressed and marginalized, and with what material effects (e.g. policies, funding, governance regimes) (Forsyth, 2003; M. J. Goldman & Turner, 2011, p. 2).

Over the course of my graduate studies, I heard Indigenous leaders, activists, and scholars state the last thing their community needs is a PhD student or external researcher to investigate something on their behalf. This is understandable. Indeed, Indigenous Peoples are the visionaries behind, and experts about, IPCAs. My hope is that this research contributes to political (e.g., governance and fiscal), legal, and socio-cultural changes that support the contexts in which Indigenous-led conservation and IPCAs can thrive. I have been cautious when approaching Indigenous Nations and organizations to discuss research partnerships out of concern I may not be able to deliver desired results and appropriately compensate participants for their time and expertise. Further, given personal and institutional limitations I worried that I lack the time and funding to do meaningful, long-term, and community-based research, let alone in some of the
remote locations where I initially sought to develop relationships (e.g. northern Northwest Territories). While holding these concerns, I am engaging with Paulette Regan’s (non-Indigenous Canadian settler) challenge to non-Indigenous people to “unsettle ourselves to name and then transform the settler—the colonizer who lurks within—not just in words but by our actions” (2010, p. 11). To me, this entails assuming my responsibilities as a settler beneficiary to genocidal processes of colonization that continue to reverberate throughout Turtle Island/Canada today (TRC, 2015). Through this research I attempt to intervene in settler institutions, politics and governance frameworks that continue to disenfranchise and exploit Indigenous Peoples in Canada by appropriating or controlling lands and resources, including through conservation. This approach is consistent with anti-oppressive and decolonial calls for settlers to relieve the burden on Indigenous Peoples and racialized groups by engaging with the institutionalized legacies of colonialism and racism we have all inherited (e.g. D. B. Littlechild et al., 2021; McGregor, 2017).

While my research responds to various calls by Indigenous leaders and scholars, I acknowledge that systemic racism and colonialism are forces running through and pushing against this work. Influenced by the Indigenous Circle of Experts’ (ICE’s) (2018) report, We Rise Together, I envisioned a role for my research to support the implementation of ICE’s recommendations for advancing a “paradigm shift in conservation” (ICE, 2018, p. 8) including recommendation (#25) to establish partnerships with Indigenous governments that advance research that supports IPCAs. This research also responds to the Truth and Reconciliation Commission of Canada’s (TRC’s) Call to Action 65, which encourages multi-sectoral partnerships with Indigenous Peoples on research that advances understandings of reconciliation (TRC, 2015, p. 242). Nevertheless, I am concerned about the ways in which socially progressive white people, myself included, unintentionally propagate racial harm through a host of strategies including micro-aggressions, performing “niceness,” denial, defensiveness, blindness, and white fragility (DiAngelo, 2021). As Robin DiAngelo (White) points out, having good intentions does not preclude harmful behaviours and consequences. In Turtle Island/Canada, we live in a country that is set up to enable upward mobility for white people while racialized people experience an exhausting suite of barriers, challenges, dismissals, attacks, in almost every aspect of life (DiAngelo, 2021). The pervasiveness of institutionalized colonialism and racism affects my (and
our) perceptions and how I (we) engage with research and knowledge practices. Persistent social injustice, combined with ongoing land appropriation, reinforces the need for reconciliation research to enable structural, systemic and institutional change (D. B. Littlechild et al., 2021; McGregor, 2017).

Over the past several decades the social sciences, including human geography, have been increasingly emphasizing research ethics, Indigenous engagement and partnership approaches, and community-based research methods. In part this is driven by a rich body of feminist, Indigenous, and decolonizing scholarship attentive to power and the politics of knowledge creation. Much of this work reflects the contributions of Indigenous Peoples and other marginalized groups who have expanded epistemological and methodological conversations. Yet, despite the evolving discourse of ethics in knowledge creation, research continues to be fraught and contested. Indigenous students and faculty remain underrepresented in academic institutions, despite recent efforts to indigenize Canadian universities. This underrepresentation, combined with the history of colonial research, means that the “canons” often lack Indigenous voices and representation; as such, researchers ought to critically assess existing bodies of knowledge (McGregor, 2017). Being attentive to citational practices, I sought out research and knowledge shared by Indigenous and other racialized peoples with consideration of gender diversity.

Feminist scholars such as Sara Ahmed (woman of color) and Max Liboiron (Red River Métis/Michif/Treaty 6 territory) have done an exemplary job of challenging citational practices within academia, pointing out the limitations of reinforcing (particularly white) male scholars (Ahmed, 2013, 2017; Liboiron, 2021). Without making an effort to listen to who else may be speaking, scholars can reproduce “citational privilege” (“when you do not need to intend your own reproduction”) and consequently reproduce whiteness regardless of intent (Ahmed, 2017, p. 150). As Ahmed (2017, p. 148) writes, “I think as feminists we can hope to create a crisis around citation, even just a hesitation, a wondering, that might help us not to follow the well-trodden citational paths” (p. 148). Within my own work I try to pursue less traveled “citational paths,” which involves seeking out Indigenous, Black and people of colour scholars, and the scholars they cite, as a form academic kinship. I also sought out and attended talks, presentations, and trainings by Indigenous leaders, practitioners, scholars, Elders, authors, and activists from an
array of disciplines to foster a stronger understanding of the contestation between Indigenous and settler-colonial systems, modes of thought, and environmental practices. In this dissertation I follow Liboiron’s (2021, pp. 3–4) guidance around situating, or “marking” the individuals I introduce in the text by noting their self-identification, regardless of their ethnicity, following their name. I do this the first time they appear in each chapter.\(^\text{18}\) When I could not find this information, I signal the author as “unmarked,” as per Liboiron’s example who notes that “introducing yourself is part of ethics and obligation, not punishment” (p. 4). I found that this practice supports what Liboiron suggests is a more transparent and relational way of understanding “where authors are speaking from, what ground they stand on, whom their obligations are to, what forms of sovereignty are being leveraged, what structures of privilege the settler state affords, and how we are related” (p. 4).\(^\text{19}\)

### 2.3 Critical and Community-engaged Methodologies

Decolonial (including Indigenous) and feminist methodologies, which foster community-engaged research practices, are the major influences on my research approach. These overlapping methodologies are synergistic and well suited to decolonial political ecology and to this study. Concerned with power and positionality, these methodologies are explicitly interested in social justice and participatory or reciprocal knowledge production. I address decolonial and Indigenous methodologies before turning briefly to feminist and community-based research methods.

#### 2.3.1 Decolonial and Indigenous Methodologies

In many Indigenous contexts research continues to be “one of the dirtiest words in the indigenous world’s vocabulary” and “is inextricably linked to European imperialism and

\(^{18}\) When an author/creator does not explicitly situate themselves in the work I am citing, I checked (where applicable) their personal website, university webpage, webpages of projects they are involved with, and sometimes other publications. I avoided resorting to Wikipedia or media articles about the individual in case these were not vetted by the author/creator, and therefore potentially inaccurate.

\(^{19}\) This practice of citational accountability requires more time and consideration than conventional approaches. Even so, a more robust approach would involve a systematic review of one’s bibliography, noting each author’s self-identification and analyzing the extent to which one has reproduced or averted citational privilege (e.g. whiteness and maleness). I endeavor to do this in future publications, particularly in light of wishing to amplify Indigenous voices and perspectives.
colonialism” (L. T. Smith, 1999, p. 1). For example, settler colonial power relations function as a structure of oppression that play out in settler colonial knowledge systems premised on conquest through research (Tuck & Yang, 2014; Wolfe, 2006). Research is implicated in processes of othering by which the West has come to know itself as modern subjects distinct from the “primitive,” “feminine,” and “traditional/amodern” (Harding, 2008; Latour, 1993; L. T. Smith, 1999). Meanwhile, research conducted “on” Indigenous peoples has been thoroughly critiqued for its ethical breaches. This includes furthering the objectives of researchers at the expense of research subjects (sometimes with flagrant breaches of ethics and consent) and failing to produce relevant findings for Indigenous communities (Kovach, 2009; McGregor, 2017; Reardon & TallBear, 2012; L. T. Smith, 1999).

As a settler scholar committed to ethical and beneficial research partnerships with Indigenous collaborators, my conceptual framework and methods are informed by Indigenous and decolonizing methodologies. Indigenous and decolonizing research methods emphasize relationships and reciprocity, researcher positionality, and community-based approaches that disrupt dominant power relations involved in academic knowledge production (Carlson, 2016; Drawson et al., 2017; Hunt, 2014; Kovach, 2009; Reardon & TallBear, 2012; L. T. Smith, 1999; Wilson, 2008). Shawn Wilson (Opaskwayak Cree), in Research is Ceremony (2008, p. 13), explains that “an Indigenous research paradigm is made up of an Indigenous ontology, epistemology, axiology and methodology” and “needs to be followed through all stages of research” (p. 15). Wilson uses the term “Indigenous research” to indicate “research done by or for Indigenous peoples” in which Indigenous Peoples identify the topics of study and the chosen methodology incorporates “their cosmology, worldview, epistemology and ethical beliefs” (p. 15). In Indigenous Methodologies, Margaret Kovach (Nêhiyaw and Saulteaux) writes that researchers—Indigenous and non-Indigenous alike—can engage with Indigenous research frameworks as a way of honouring Indigenous knowledge systems (2009, p. 11). As Kovach (p. 35) explains, Indigenous methodologies (involving methods such as “sharing circles, story, protocol”) “are guided by tribal epistemologies, and tribal knowledge is not Western knowledge” (p. 30). However, in Decolonizing Methodologies, Linda Tuhiwai Smith (Ngāti Awa and Ngāti Porou, Māori), speaking about research in a Māori context, suggests that non-Māori researchers may not be able to conduct Kaupapa Māori research, or at least not on their own and would need
to position themselves adequately as non-Indigenous people (1999, p. 184). While Indigenous and decolonizing methods overlap, given my positionality I identify most with decolonizing methods and have been open to adopting Indigenous methods in my research collaborations (see Section 2.5).

Cognizant of critiques of non-Indigenous researchers and the harm that research has inflicted on many Indigenous Peoples (e.g. L. T. Smith, 1999), I attempt to work in ways that are supportive to my research partners by responding to their priorities (Brown & Strega, 2005; Kovach, 2009; Wilson, 2008). My approach encompasses “researching back” (L. T. Smith, 1999, p. 7) or “giving back” (Kovach, 2009, p. 45) in the spirit of reciprocity as well as “standing with” my collaborators (TallBear, 2014, p. 4). Kim TallBear (Sisseton-Wahpeton Oyate, South Dakota and Cheyenne and Arapaho Tribes, Oklahoma) calls on researchers to break down the “binary between researcher and researched” to democratize knowledge creation (2014, p. 2). She encourages relational processes (i.e., where research participants are colleagues rather than subjects) that create space for knowledge sharing beyond data collection. Wilson describes “relational accountability” as being “bound by our relations of responsibility, care, and reciprocity” (Wilson & Hughes, 2019, p. 13). When researchers conduct themselves in accordance with their values while being accountable to “family, to Nation, to environment, to ideas, to ancestors, to cosmos/the universe” then this is an act of reconciliation (Wilson & Hughes, 2019, p. 17). Guided by these principles, frameworks, and responsibilities, I have strived to maintain relationships and good standing with my community collaborators. Where possible (and invited) I have attended meetings and in-person and land-based gatherings to foster relational accountability and connection with the territories my collaborators are tied to. With input from my collaborators, I outlined the research priorities, questions, methods, and outputs (contained in research protocol agreements; Appendix A) at the outset of my collaborations and routinely revisited these with my partners over the duration of our collaboration.

Decolonizing methodologies can seem like a panacea to extractive or exploitative research. Yet, Eve Tuck (Unangax̣) and K. Wayne Yang (unmarked) warn against mobilizing “social justice, critical methodologies, or approaches which decenter settler perspectives” under the banner of decolonization without attending to what decolonization “wants and requires” (2012, p. 2). The antidote, they assert, is in part to engage with the context of settler colonialism.
in Turtle Island/North America and Indigenous struggles for recognition of sovereignty. This requires thoughtful engagement with Indigenous and decolonizing theories and frameworks without trying to absolve settler guilt or ensure settler continuity (Tuck & Yang, 2012). To avoid epistemic violence researchers must acknowledge our “deeply troubled relationships with both each other and with the lands, waters, and air around us” (Castleden et al., 2017, p. 14). This has implications for ethically braiding Indigenous and Western scientific knowledge systems in ways that do not erase the political, historical, and geographical contexts that shape these knowledge systems (Castleden et al., 2017; Coombes et al., 2014; Kimmerer, 2013). I have kept these considerations front of mind throughout the research process. Ethical Space and Two-Eyed Seeing are two complementary conceptual frameworks I employ in this research and my conservation work more broadly.

**Ethical Space**

Ethical Space is a conceptual framework developed by Elder Dr. Reg Crowshoe (Piikani Blackfoot) and Professor Willie Ermine (Sturgeon Lake First Nation) that draws on Roger Poole’s 1972 work (Crowshoe & Ermine, 2014; CRP, 2020; Ermine, 2007). A “ceremony between worldviews,” it is a space of collaboration in which all knowledge, legal, and governance systems are welcomed, valid, and legitimate (Crowshoe & Ermine, 2014). Ethical Space gained popularity in the conservation sector when Pathway to Canada Target 1 adopted it as its framework for collaboration20 (Figure 2.1; Pathway to Canada Target 1, n.d.). Acting as what former ICE Co-Chair and Ha’uukmin Tribal Park Co-Founder Eli Enns (Tla-o-qui-aht Nation on paternal side and Dutch Mennonite on maternal side) calls “a knowledge systems interface,” Ethical Space emphasizes respectful approaches to multi-cultural collaboration (CRP, 2020). Crowshoe describes the concept as “two systems [i.e. Indigenous and Western] understanding each other” through a foundation of “trust and respect” (CRP, 2020). As a multifaceted concept, Ethical Space is a process, method, and a place of innovation and transformation (D. Littlechild & Sutherland, 2021). Whenever diverse actors with contrasting

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20 Pathway to Canada Target 1 was the national conservation initiative to meet Aichi Target 11 by 2020 in which ICE played a critical role articulating and promoting IPCAs. Aichi Target 11, pertinent to signatories to the global Convention on Biological Diversity (CBD), outlined the goal of conserving 17% of a country’s lands and freshwaters, and 10% of its marine environment by 2020. The Government of Canada is now striving for 30% protection of by 2030 under the new CBD targets.
worldviews collaborate on mutual projects there is an opportunity to enter Ethical Space. In this space, actors actively welcome multiple viewpoints, imperatives, institutional processes, modes of governance, and bodies of knowledge. Collaborators working within Ethical Space intentionally decide which “ethical, legal, policy, or other standards will inform their chosen path” (D. Littlechild & Sutherland, 2021, p. 9). Given the legacy of settler colonialism, this entails elevating Indigenous knowledge, governance, and legal systems to the same level of consideration as dominant Eurocentric practices, processes, and knowledge systems.

Cultivating Ethical Space is a relational, deliberate, and action-oriented process that all parties agree to. My community collaborators preferred to engage with the research in an advisory capacity (i.e., determining the overarching questions and identifying methods, outputs, and knowledge mobilization relevant to their context) as well as sharing their expertise (e.g. in research interviews and meetings and by reviewing drafts). Both partners (Dasiqox Nexwagweźʔan Initiative and KXSA) favoured this type of participation over more participatory approaches involving a greater number of community members. I think their preferences for collaborating in this manner reflects capacity strains on leaders and staff, potential research fatigue among community members, and trust that I will deliver on our shared research interests. Respecting the preferences of my collaborators thus foreclosed some possibilities, at least for now, of creating an Ethical Space framework for our collaboration, or using Indigenous research methods such as Talking Circles (Section 2.5). Nevertheless, my appreciation of Ethical Space, along with Two-Eyed Seeing, continues to influence my thinking and ways of relating in research collaborations. 21 With Ethical Space as my compass, I have oriented myself and the research to acknowledge the multiplicity and legitimacy of worldviews, and legal, knowledge, and governance systems (and to point out the repercussions of failures to do so). This approach is consistent with Kovach’s (2009, p. 43) position that “from a decolonizing perspective, the use of conceptual frameworks to reveal privileged epistemologies can work towards instigating change or, at the least, mitigate methodological inconsistencies that tend to arise when integrating

21 Dr. Danika Littlechild, an expert on Ethical Space and the lead of CRP’s Ethical Space “Stream or Work”, has largely shaped my understanding. Within our stream, comprised of Indigenous leaders and conservation practitioners, academics (professors and graduate students), and conservation organizations we are articulating an Ethical Space framework for the CRP. Ethical Space is one of the foundational guiding principles of the CRP and is infused throughout the partnership.
Indigenous and Western methods.” I employ this dual approach of examining the intersection of Indigenous and Eurocentric knowledge, governance, and legal systems as they apply to conservation while challenging privileged (i.e. settler colonial) epistemologies and practices in the following chapters. For example, I reveal underlying ontological orientations that inform Eurocentric approaches to, and dominant narratives about, land use and conservation planning (Chapter 3), possibilities for reconciliation through IPCAs (Chapter 4), and legal approaches to IPCAs (Chapter 5). This attention to values, norms, and assumptions at the intersection of Indigenous and Eurocentric systems of environmental governance enables a deeper reading of the ensuing tensions and possibilities for working through them.
Figure 2-1. Ethical Space framework developed by the Indigenous Circle of Experts

Ethical Space

As the below image shows, in an ethical space, relationships should be nurtured on multiple levels—not just on a political level—and founded on the principles that define our understanding of the space.

Source: ICE, 2018, p. 18
Two-Eyed Seeing

Two-Eyed Seeing, or *Etuaptmumk* in Mi’kmaw, is a related Indigenous conceptual framework for appreciating multiple knowledge systems (e.g. “Indigenous knowledges and ways of knowing” and “mainstream knowledges and ways of knowing”) “for the benefit for all” (Figure 2.2; Bartlett et al., 2012 in Reid et al., 2021, p. 245). Mi’kmaq Elder Dr. Albert Marshall shared and expanded on Mi’kmaq concept of *Etuaptmumk*, which has been taken up more recently in conservation and resource management (e.g. CRP, n.d.; Kutz & Tomaselli, 2019; Reid et al., 2021). In research, Castleden et al. (2017) promote Two-Eyed Seeing to overcome the persistence of colonial mentalities in integrative and collaborative projects by inviting awareness of one’s ontological and epistemological assumptions.

A Two-Eyed Seeing approach keeps me asking questions about the gifts and the limitations of the knowledge systems I engage with; in particular, it feeds my curiosity about and respect for Indigenous perspectives and knowledge systems. Given my background, my access to Indigenous knowledge systems is limited and lacks cultural context and lived experience. Two-Eyed Seeing reminds me to cultivate my capacity to see with the other eye. This has involved forming research collaborations with several Indigenous Nations seeking out Indigenous scholarship and perspectives (including by Indigenous leaders, activists, and organizations unaffiliated with universities) both on conservation-related issues as well as on knowledge systems and research. Feminist epistemologies and methods that emphasize the multiplicity, partiality, and situatedness of knowledge (Haraway, 1991; Harding, 2008; TallBear, 2014) support a Two-Eyed-Seeing approach.
2.3.2 Feminist Methodologies

Feminist scholarship has contributed to various methods in political ecology and human geography that influence my research approach in conjunction with decolonial and Indigenous methodologies. These contributions include an emphasis on reflexivity and positionality (e.g. Haraway, 1988; Hunt, 2014; Nightingale, 2003; Rose, 1997; Sundberg, 2014), intersectionality and identities (e.g. Butler, 2010; Crenshaw et al., 1991; Faria & Mollett, 2016; Sundberg, 2004; Valentine, 2007), power knowledge relations (e.g. Harding, 2008; Harding & Norberg, 2005) and naturecultures/socionatures (e.g. Haraway, 1988, 1991, 2004; Rocheleau & Roth, 2007; Todd, 2016; Whatmore, 2006). The “rooted networks” approach has supported me to translate my appreciation of relational Indigenous philosophies into my research approach. A rooted network approach seeks to understand how power relations animate networks of human and...
other beings that exist in particular locales and environments (Cantor et al., 2018; Rocheleau & Nirmal, 2015; Rocheleau & Roth, 2007). It is also intended to be “a lens for ‘seeing multiple’” which acknowledges the multiplicity of perspectives depending on where and how one is situated within a network (Cantor et al., 2018, p. 960).

Feminist calls for “studying up” turns the researcher’s gaze from marginalized populations to the dominant institutions, policies and practices that create conditions of marginality (e.g., Harding and Norberg 2005). This practice is aligned with Tuck’s (2015) call for a moratorium on “damage-centered” research on Indigenous and marginalized populations in favour of regenerative research (see also McGregor, 2017). Tuck’s call echoes through Leanne Simpson’s and Audra Simpson’s calls for “generative refusal” (A. Simpson, 2014; L. B. Simpson, 2017) and Indigenous resurgence (L. B. Simpson, 2011, 2017). By centering Indigenous research questions and engaging decolonizing methods I have attempted to produce collaborative research that supports Indigenous resurgence and Indigenous futures as envisioned through IPCAs. I am intellectually indebted to many Indigenous scholars and leaders, including my research partners, for shaping my understanding of IPCAs and how they articulate with processes of reconciliation. While expanding my worldview on relational accountability (to knowledge, people, land and water, etc.), I acknowledge that I am still holding the pen on this story and will eventually earn a doctorate through this process. Thus, it is important to acknowledge the collaborative thinking that influenced the story and the responsibility stemming from the research. These responsibilities extend beyond research ethics to sharing knowledge, which I discuss in Section 2.6.

Together, decolonizing, Indigenous, and feminist methodologies support critical political ecology studies concerned with social justice and transformative change. These philosophical and methodological strands converge with the practical mandate of community-based research (CBR).22

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22 Also referred to as community-based participatory research and participatory-action research, I view these terms as interchangeable.
2.3.3 Community-based Research

While CBR is not explicitly decolonial, it attempts to subvert dominant power relationships between researchers and research participants by democratizing the research process and co-producing knowledge with participants (Cahill, 2007; Caretta & Riaño, 2014; Chilisa, 2012; Stanton, 2014). As with decolonial, Indigenous, and feminist methods that emphasize reciprocity, CBR is critical of extractive research paradigms. Instead, CBR fosters a relational approach concerned with co-producing knowledge that contributes to the priorities of research participants (Cahill, 2007). With its roots in social justice and the democratization of knowledge, CBR challenges the belief that experts know best. CBR practitioners value local and community experience and expertise. As such, CBR is premised on the belief that those involved in, or affected by, the research ought to have the opportunity to be involved in every step of the research journey. This could include formulating research questions, selecting methods, and conducting, interpreting, and mobilizing the research. This process of mutual discovery disrupts the reproduction of power-knowledge relations steeped in colonialism (Townsend, 2009).

Two recent literature reviews revealed that CBR is recognized as a best practice for conducting research with Indigenous Peoples and communities and is aligned with Indigenous research methodologies (Alcock et al., 2017; Drawson et al., 2017). The Tri-Council’s Policy Statement on Research Involving the First Nations, Inuit and Métis Peoples of Canada (TCPS 2, Chapter 9) also acknowledges the importance of meaningful engagement with Indigenous Peoples in research affecting them (Government of Canada, 2018). Moreover, it outlines that research with or affecting Indigenous Peoples or their knowledge systems requires building trust and reciprocity through relationships and community engagement (Government of Canada, 2018). Unfortunately, various constraints make CBR difficult to implement; thus, research that purports to be collaborative often does not differ significantly from other forms of research (Coombes et al., 2014). Constraints include lack of time and funds necessary to attend to long-term relationships and community-needs, as well as institutional constraints (Coombes et al., 2014). I discuss my own reflections on the nature of collaborative research in Section 2.4 but suffice to say here that my research is community-engaged rather than fully community-based.

In summary, by engaging decolonial, feminist, and community-based research paradigms and methods (Figure 2-3), I have attempted to respond to the research questions and needs of the
Nations with whom I am collaborating, and to support and elevate Indigenous-led conservation and processes of reconciliation more broadly. I am especially thankful for the many sources of teachings that have directed me to a relational ontology with its imperative to uphold our responsibilities to our sacred planet. I strive to be accountable to the lands and waters, and all the beings who inhabit them, as well the knowledge systems and keepers who hold this wisdom. It is a grand responsibility, but one most certainly needed in these times.

**Figure 2-3. Critical and community-based methodologies**

2.4 Research Ethics

I conducted this research adhering to the standards, processes, and procedures outlined by the Research Ethics Board at the University of Guelph. My research also abides by TCPS 2, Chapter 9 which identifies three core principles of ethical research in Indigenous contexts: “Respect for Persons, Concern for Welfare, and Justice” (Government of Canada, 2018). Chapter 9 is a thoughtful consideration of past harms induced by researchers paired with principles-based guidance for ethically engaging in research with Indigenous Peoples. Published in 2018, it reflects the evolution of research ethics in Canada, even referencing “ethical space” in the preamble. The Tri-Council (Social Sciences and Humanities Research Council, or “SSHRC”, National Sciences and Engineering Research Council, and Canadian Institutes of Health Research) considers Chapter 9 a living document that will evolve with additional Indigenous
engagement. In addition to TCPS 2, Chapter 9, I am also aligning with the First Nations Principles of ownership, control, access, and possession (OCAP). OCAP principles are intended to support Indigenous data sovereignty “in line with a Nation’s respective world view, traditional knowledge, and protocols” (The First Nations Information Governance Centre, 2021).

Most importantly, my research partners—Dasiqox Nexwagweźʔan Initiative and Kitasoo Xai’xais Stewardship Authority—have internal research ethics review processes. The research protocol agreement I signed with each partner clarified the nature and purpose of our collaboration, expectations, confidentiality, data ownership, validation, and transparency. I introduce these partnerships in the following section (Appendix A).

2.5 Partnerships

Like many research journeys, my collaborations with the Dasiqox Nexwagweźʔan Initiative and KXSA resulted from generous connections and an adaptive approach to unforeseen circumstances. I am grateful to many people for facilitating these relationships and the willingness of many more individuals who partnered with me and contributed to the study.

Although I initially intended to study two IPCAs with different governance typologies in contrasting jurisdictions, I ultimately selected two IPCAs with similar yet unique governance arrangements in B.C. One of my early research objectives was to investigate how the presence or lack of modern treaties and self-governance agreements shape the types of IPCA governance arrangements Indigenous Nations pursue. The two typologies of IPCAs I initially pursued were:

1. An IPCA in a territory with a treaty or self-governance agreement, where the IPCA will be co-managed by Indigenous and Crown actors; and
2. An IPCA in a territory without a treaty or self-governance agreement, where the IPCA will likely not be co-managed by Indigenous and Crown actors (at least for now).

I also set out to investigate IPCAs in northern and southern geographies in Canada to see how different historical and political contexts would influence IPCA governance arrangements and

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23 Beyond stating compliance in applications to university research ethics boards there are lack of accountability systems ensuring researchers are abiding by the guidance in Chapter 9. From my own experience at the University of Guelph there appears to be a lack of training and resources available to researchers that would enable them to carry out research in the ethically comprehensive way Chapter 9 envisions.
consequently shape local reconciliation processes. To this end, I began developing a relationship with the Ts’ude niline Tu’eyeta Indigenous Protected Area in the Sahtu Dene and Métis Settlement Area, (northwest NWT) and later with Thaidene Nêné in Lutsel K’e Dene First Nation and Akaitcho territory (Treaty 8, NWT). Both IPCAs were recently established and are being co-governed by Indigenous Nations with Crown partners. These IPCAs were also established using Indigenous laws and Crown legislation and thus fall under multiple protected area designations (e.g. IPA, territorial park, territorial wildlife conservation area, and national park reserve in the case of Thaidene Nêné). Despite preliminary interest from both IPCAs to collaborate, pragmatic constraints included the high travel costs associated with fieldwork in remote northern communities in the NWT. When the arrival of the COVID-19 pandemic in March 2020, travel to these remote and vulnerable communities was no longer an option. I thus pivoted my research to focus on the second IPA typology with examples from my home province, Dasiqox Nexwagweż?an and Kitasoo Xai’xais Protected Areas.

Dasiqox Nexwagweż?an is an IPA declared and governed solely by the Tsilhqot’in communities of Xeni Gwet’in and Yunesit’in in conjunction with the Tsilhqot’in National Government in the southern interior of B.C.. While the Nations have not signed treaties, the Tsilhqot’in National Government signed a tripartite reconciliation agreement with B.C. and Canada in 2019 (Gwets’en Nitlt’i Pathway Agreement). The IPA is linked to the first (and only) instance in Canada where the Supreme Court of Canada recognized Aboriginal (Tsihlqot’in) title, which further contributes to the IPA’s unique governance context. Kitasoo Xai’xais Protected Areas, an initiative of Kitasoo Xai’xais Stewardship Authority (KXSA), are being governed solely by the Kitasoo Xai’xais Nation at this time. Recently, the Nation established a marine IPA in their territory, Gitdisdzü Lugyeks (Kitasu Bay) marine protected area (MPA). The Kitasoo Xai’xais Nation has not signed a treaty but is a signatory to federal and provincial reconciliation agreements. Federally, these include a Fisheries Reconciliation Agreement (2017) and an Ocean Reconciliation Framework Agreement (2018). Provicially, these include a Reconciliation Protocol Agreement (2009 and 2016) and a Collaborative Management Agreement with BC Parks (2006). Kitasoo Xai’xais Protected Areas are unique in that they encompass terrestrial and marine IPCAs. I provide a brief overview of each IPA context below.
2.5.1 Dasiqox Nexwagweʔan IPCA

Nexwagweʔan Vision Statement

*With the Dasiqox Tribal Park, the Tsilhqot’in people assert our responsibility and our right to protect this place. Where the waters, land, forests, animals, and people are full of life, thriving, healthy, and strong in our relationships with each other. We are part of the land; the land is part of us. We take care of each other. Our spirits are joined with this place, through time. The Dasiqox Tribal Park is the heart of a strong Tsilhqot’in culture. It is a place where we hunt, fish, learn, teach, and share while spending time out on the land respectfully, a place where we feel happy and healthy. It is there for us; it is there for future generations. Nexwagweʔan (Nexwagweʔan community vision and management goals for Dasiqox Tribal Park, 2018).*

In October 2014, the Tsilhqot’in communities of Xeni Gwet’in and Yunesit’in declared 3,000 km² of their territories located in B.C.’s southern interior within the shared Caretaker Areas of the Yunesit’in and Xeni Gwet’in First Nations Governments a Tribal Park (Dasiqox Tribal Park Initiative, 2020; Figure 2-4). Dasiqox Nexwagweʔan, which translates to [it is] “there for us,” reflects the Tsilhqot’in’s vision of thriving in their territories and upholding their responsibilities to the lands, waters, and future generations. Dasiqox is the name of the watershed including the headwaters and river that make up this culturally and ecologically significant area. Together with the Tsilhqot’in Title Lands and the Declaration of Rights Area, Dasiqox Nexwagweʔan protects the whole watershed including the headwaters, which is a priority for the Tsilhqot’in. Increasingly, the Dasiqox Nexwagweʔan leadership team is dropping “Tribal Park” from its name because of the negative connotations “park” evokes for some Tsilhqot’in members, notably the concern that it could mean Tsilhqot’in cannot use the area. Yet, Dasiqox Nexwagweʔan could not be further from a conventional park or protected area.

Dasiqox is Indigenous-led (under Xeni Gwet’in and Yunesit’in shared governance), represents a long-term commitment to conservation, and is grounded in Tsilhqot’in law, governance, and knowledge. The initiative is premised on three core values of ecological protection, cultural revitalization and protection, and sustainable economic development. The IPCA “is an expression of Tsilhqot’in self-determination and a means of governing a land base”

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24 Dasiqox Nexwagweʔan is remote, accessible by highway and then unpaved roads about 125 km southwest of the town of Williams Lake, which is located about 550 km north of Vancouver.

25 In 2022, the Dasiqox Nexwagweʔan Initiative formally removed “tribal park” from its logo and began updating their website to reflect this change.
Two major themes motivated the communities of Xeni Gwet’in and Yunesit’in to establish Dasiqox Nexwagweẑʔan: protecting their territory in the face of state-sanctioned resource extraction, and asserting jurisdiction, rights, and title beyond the limited area the Supreme Court of Canada recognized in 2014 (Tsilhqot’in Nation v. British Columbia, 2014). The Tsilhqot’in communities have a long history of resisting unwanted resource extraction in their territories, which has significantly impacted their lands (Youdelis et al., 2021). In June 2014, the Supreme Court of Canada recognized the Tsilhqot’in’s title in a portion of the Xeni Gwet’in Caretaker Area, and affirmed various Tsilhqot’in rights in some areas outside of the title lands. However, the Tsilhqot’in maintain they have title to their entire territory irrespective of the court’s decision—including the lands and waters within Dasiqox Nexwagweẑʔan. Therefore, establishing Dasiqox Nexwagweẑʔan “is one means of reminding the Crown that the Tsilhqot’in continue to protect, and exercise their responsibility to care for, their whole territory” (Youdelis et al., 2021, p. 14).

Through Dasiqox Nexwagweẑʔan I investigate how those closely involved with the initiative understand, relate to, and communicate their vision for their lands, waters, and communities, as well as their motivations for establishing an IPCA. In doing so, I consider how their approach challenges conventional understandings of parks and protected areas. I also examine how this IPCA articulates with the discourse and practice of conservation and reconciliation in the context of environmental conflict (e.g., differing and incompatible visions for the land), industrial pressures (e.g., mining and forestry and the provincial tenure system), and contested jurisdiction (e.g., Tsilhqot’in and Crown). Dasiqox Nexwagweẑʔan foregrounds political opportunities for Tsilhqot’in enabled through the 2014 Supreme Court decision, while also illustrating how the ruling on its own is insufficient for upholding Tsilhqot’in self-determination since it does not comprehensively recognize Tsilhqot’in title to their entire territory. Because of the title case and the mineral development pressures Dasiqox Nexwagweẑʔan is a “tangible expression of reconciliation” (Nexwagweẑʔan community vision and management goals for Dasiqox Tribal Park, 2018, p. 16), and has the potential to be a

26 For a detailed description of the factors leading to the establishment of Dasiqox Nexwagweẑʔan, a timeline of key events, and a discussion of how Crown agencies simultaneously support and undermine IPCAs refer to our co-authored article, “Decolonial conservation: Establishing Indigenous protected areas for future generations in the face of extractive capitalism” (Youdelis et al., 2021).
“reconciliation region” (ICE, 2018, p. 48), depending how multiple actors converge to support the initiative. The 2019 reconciliation agreement signed by the six Tsilhqot’in communities, the Tsilhqot’in National Government, the Government of Canada, and the Province of B.C. recognizes Tsilhqot’in rights to self-determination and governance and outlines a vision for reconciliation that includes priorities that overlap with those of Dasiqox Nexwagwe̓ʔan (Tsilhqot’in Nation et al., 2019). This emerging, promising, and contested Tsilhqot’in initiative is a fruitful locus through which to identify the enabling and constraining factors that affect the IPCA as a potential process of reconciliation.

I entered into a research protocol agreement with Xeni Gwet’in First Nation Government and Yunesit’in First Nation which guides my collaboration with the Dasiqox Nexwagwe̓ʔan Initiative (Appendix A). I used a mix of semi-structured interviews and participant observation methods in our collaboration (see Appendix B for sample interview guides). These methods enabled me to inquire into specific aspects of the initiative with knowledgeable actors involved with the governance and operations of Dasiqox Nexwagwe̓ʔan and observe how the initiative operates internally including the challenges and opportunities it faces. Our research protocol agreement stipulates the Nations’ preferences for me to conduct interviews with a small subset of leaders and staff closely involved with the initiative. This is intended to reduce research fatigue on community members who have previously participated in interviews. For example, the Dasiqox Nexwagwe̓ʔan Initiative conducted extensive community engagement over a three-year period which included focus groups and interviews with 63 community members. These contributions, along with many other meetings and conversations, culminated in a management plan, “Nexwagwe̓ʔan: Community Vision and Management Goals for Dasiqox Tribal Park” in 2017 (updated 2018). I therefore did not proceed with my initial proposal to interview more broadly and conduct talking circles, co-facilitated with a local research assistant, with community members about their perceptions of Dasiqox Nexwagwe̓ʔan, conservation, and reconciliation. While I did not have access to the completed interviews, I was given access to and analyzed the confidential 90-page management plan.

The key informant interviews I conducted with past and present leaders and key staff were instrumental to developing my understanding of Dasiqox Nexwagwe̓ʔan and our shared research interests. My engagement with the leadership team and particularly former Chief of
Yunesit’in Government, Russel Myers Ross (who continues to support the Dasiqox Nexwagweżʔan Initiative particularly with governance matters), informed the direction of this research. Russ identified Indigenous governance models and reconciliation to be central matters of interest to the initiative. Dr. Jonaki Bhattacharyya, Stewardship Advisor and Management Planning for Dasiqox Nexwagweżʔan, who also acts as a research coordinator for the initiative, was instrumental to facilitating this research collaboration. Meanwhile, Dr. Roger William, Team Coordinator—Community Outreach, provided instrumental context on the initiative. I delve into the enabling and constraining factors affecting IPCAs as potential processes of reconciliation in Chapter 4. The Dasiqox Nexwagweżʔan Initiative reviewed and approved all dissertation material related to Dasiqox Nexwagweżʔan.

I made three trips to Tsilhqot’in territory in 2019 before COVID-19 restrictions on travel came into effect in early 2020. These trips included meeting the Dasiqox Tribal Park Coordinator and Chief of the Yunesit’in Government at the time (Russel Myers Ross), observing a regional district meeting in Williams Lake where the Dasiqox leadership team presented an update; and attending a title transition table meeting in Xeni Gwet’in, a governance meeting in Yunesit’in, the Tsilhqot’in National Government’s Annual Nation gathering in Siwash flats, and the Annual Brittany Gathering at Henry’s Crossing in the Nemiah Valley (Henry’s Crossing). The Brittany Gathering marked the 30th anniversary of the Nemiah Declaration, an important political and environmental statement by Xeni Gwet’in First Nation from 1989, and the Tsilhqot’in’s announcement of Nulh Ghah Dechen Ts’edilhtan: Tšilhqot’in Nation Wildlife Law coming into effect on title lands. Attending the Brittany Gathering was influential as the Brittany Triangle holds deep historical and cultural significance to Tsilhqot’in. Making the eight plus hour road trip from Vancouver (including navigating rough roads through very rural areas with no cell service resulting in semi-flat tires) was a highlight of my research. At the invite of the Dasiqox Nexwagweżʔan Initiative, I had the privilege of camping at this beautiful place with Tsilhqot’in families, Elders, and leaders where we shared food and stories around the fire on the Chilcotin River and played traditional games. This formative experience enabled me to establish more of a connection to Tsilhqot’in territory and the communities leading Dasiqox Nexwagweżʔan. Here, I witnessed the strength, cultural pride, and resilience of the Tsilhqot’in, their longstanding connection to their culture and territories, and how they are passing their knowledge and culture.
down to the younger generations. My ongoing concern over the potential for COVID-19 to affect community and Elder health prevented me from attending future meetings and gatherings in person though I have remained involved with the initiative in various ways.

Between November 2019 and November 2020, I was invited guest at Dasiqox Nexwagwežʔan’s bi-monthly and then monthly leadership team governance meetings. These meetings switched to an online format in early 2020 with the pandemic. The leadership team is composed of the Chiefs or Councillors from Yunesit’in Government and Xeni Gwet’in First Nations Government as well as support staff from both communities (e.g., coordinators, planners, and consultants). At these meetings the leadership team discusses and makes decisions about fundraising and budget allocation, stewardship initiatives, community engagement, special projects, and management planning. In reciprocity for attending the meetings I took detailed notes, which enabled the coordinator to participate more fully in the meetings. Attending these meetings has been a privilege and unique opportunity I am grateful for. It has deepened my understanding of Tsilhqot’in values and visions for Dasiqox Nexwagwežʔan, the challenges the initiative faces, the evolution of a management and governance system for the IPCA, and opportunities related to the title transition process resulting from the 2014 Tsilhqot’in decision.

In addition to the activities outlined above, I have looked for opportunities to support Dasiqox Nexwagwežʔan. In August 2019, along with two co-authors, I published an open-access article in The Conversation to raise awareness about new threats to Dasiqox Nexwagwežʔan as a result of mining exploration (Townsend et al., 2019). This effort was in response to a request from a former Chief of the Xeni Gwet’in First Nation, supported by the Dasiqox Nexwagwežʔan Initiative, to raise public awareness about the issue. The Vancouver Sun reprinted the article which elicited a negative response from the CEO of Taseko Mines Ltd., directed at the authors. The quality of this response further illuminated the kind of relational dynamics Tsilhqot’in communities have had to face in their 30-year struggle to defend their territories from mining. Building on this experience, Dasiqox Nexwagwežʔan features as a case study in an article I co-authored discussing how some Indigenous Nations are establishing IPCAs in part to resist extractive capitalism (Youdelis et al., 2021). We illustrate how IPCAs can be supported in theory but undermined in practice. To increase the visibility and accessibility of this research we published a short summary of the open-access article on the CRP’s website. By co-authoring the
article with Dr. Bhattacharyya and including quotes and analysis from the Dasiqox Nexwagwežʔan leadership team, we drew attention to the persistent challenges the IPCA and our research partners face. These research and writing efforts are examples of enacting reciprocal research relations by responding to partner requests.
Figure 2-4. Dasiqox Nexwagwežʔan and Tsilhqot’in proven title and rights.

Source: Dasiqox Nexwagwežʔan Initiative, 2022
2.5.2 Kitasoo Xai’xais Protected Areas

The Kitasoo/Xai’xais have assumed much responsibility for planning, managing and protecting Kitasoo/Xai’xais lands, waters and resources. We provide technical advice and support for effective decision-making by the Kitasoo Xai’xais community and its leadership, ensure that Kitasoo/Xai’xais laws, customs, traditions, policies and practices are included in resource planning and management decisions, and advocate for the recognition of Kitasoo/Xai’xais Aboriginal title and rights. (KXSA, 2022b).

The KXSA supports the Kitasoo Xai’xais Nation with planning, managing, and protecting Kitasoo Xai’xais Nation lands and waters on B.C.’s central coast in the Great Bear Rainforest (Figure 2-5). Approximately 50% of Kitasoo Xai’xais’ land-based territory is designated as provincial protected areas (co-managed with B.C. Parks) with the Kitasoo Xai’xais Nation playing a key role establishing them through the Great Bear Rainforest planning processes (Chapter 3). On June 22nd, 2022, Kitasoo Xai’xais Nation declared Gitdisdzu Lugyeks (Kitasu Bay) MPA, an Indigenous-led marine IPCA (Coastal First Nations Great Bear Initiative, 2022; MPA; Gilpin, 2022). The MPA encompasses 33.5 km² of Kitasoo Xai’xais’ marine area approximately 500 km north of Vancouver (Figure 2-6). The Nation made this declaration after witnessing multiple impacts in their territory including steep declines in salmon, a critical community food source. Though the terrestrial area of Gitdisdzu Lugyeks falls within the Kitasoo Spirit Bear Conservancy (including the shorelines), which the Nation co-manages to some extent with BC Parks, the Nation seeks a stronger governance role over this cultural keystone place. Kitasoo Xai’xais Nation has developed a management plan for the MPA that incorporates Kitasoo Xai’xais laws and will be implemented by Kitasoo Xai’xais Guardian Watchmen (Gilpin, 2022). As Kitasoo Xai’xais’ elected Chief Councillor Douglas Neasloss describes, “This is reconciliation. If we find a way to collaborate with the government, good. In the meantime, we’re going to implement this management plan to ensure conservation and sustainability” (Gilpin, 2022). Kitasoo Xai’xais Nation is also exploring the establishment of Choolque (Green Inlet) terrestrial and marine IPCA (Tran, Neasloss, et al., 2020), which will include a MPA for the marine protection zone. The Nation also intends to establish subsequent MPAs in additional marine areas identified for protection within the territory.

27 In 2022, Kitasoo Xai’xais Nation updated the spelling of its name to remove the backslash. This quote reflects wording on the Nation’s website that has yet to be updated.
Given the limitations of existing provincial protected area legislation on Kitasoo Xai’xais governance, in recent years Kitasoo Xai’xais Nation has been involved in discussions with the Province of B.C. to co-develop new, or modify existing, protected area legislation. This legislation would initially apply to a new site-specific area currently designated as a Special Forest Management Area (i.e. Choolque) under provincial law. The new legislation could extend Crown protection to the Nation’s proposed IPCAs, and to existing conservancies, and ensure greater authority and jurisdiction for the Nation in governing them. Kitasoo Xai’xais Nation is also considering acquiring a forestry tenure that would enable the protection of another potential IPCA, placing it under the Nation’s governance. Some of the Nation’s goals for the potential IPCAs include ecological integrity, traditional use and cultural continuity, strengthening Kitasoo Xai’xais laws, and sustainable economic development. Principles of Kitasoo Xai’xais laws that inform their protected areas include respect, interconnectedness, reciprocity, and intergenerational knowledge (KXSA, 2022a).

In response to KXSA’s research interests, I investigate the tensions and possibilities of invoking Indigenous and Crown laws as they relate to establishing and enacting Indigenous governance within IPCAs (Chapter 5). While Indigenous Nations in Canada have the authority to establish IPCAs using their own legal systems, in the absence of additional Crown protection IPCAs can be vulnerable to commercial and public (e.g. unregulated land use) pressures. Meanwhile, co-management arrangements in provincial conservancies in B.C. do not facilitate the level of Indigenous governance envisioned by Kitasoo Xai’xais Nation. These tensions enable an analysis of the politics of recognition, Indigenous rights to self-governance and responsibilities to stewardship, the evolving political landscape of UNDRIP and reconciliation, legislative innovation and legal pluralism, and legal dimensions of reconciliation through conservation. At KXSA’s recommendation, we partnered with staff lawyer Georgia Lloyd-Smith at West Coast Environment Law (WCEL; a non-profit environmental legal organization in B.C.). I am grateful for Georgia’s contributions of legal expertise to this study including the interaction of Indigenous and Crown legal systems in IPCAs (Chapter 5). We intend to co-author a manuscript based on Chapter 5 and create various complementary outputs, all in collaboration with KXSA.
In December 2020, Georgia and I signed a research protocol agreement with KXSA which formalized our collaboration and identified the parameters and expectations of the research. As in the case of Dasiqox Nexwagweź?an, KXSA requested a targeted interview approach with key leaders and staff with KXSA knowledgeable about IPCAs and their legal implementation. Similarly, this foreclosed the possibility of speaking with a range of leaders and members of the Nation including through a more extensive interview program and community talking circles. Since community members were extensively interviewed for previous studies, we did not want to contribute to research fatigue or frustration over being asked similar questions, particularly when the broader community did not contribute to the study design. KXSA had clear and specific interests surrounding legislative innovation to support IPCAs in their territory. The study’s scope, legislative case studies, analysis, and methods of knowledge mobilization were informed by a close working relationship with KXSA. KXSA identified a peer-reviewed manuscript in an academic journal as the major desired research output that would provide useful context for and support with their ongoing negotiations with the province about new IPCA legislation. Additionally, KXSA identified a briefing note for relevant B.C. provincial agencies, a press release, layperson summary, and a contribution to the KXSA newsletter as important knowledge mobilization efforts for the Kitasoo Xai’xais Nation, and relevant Crown agencies. KXSA reviewed and approved all dissertation material related to Kitasoo Xai’xais Nation.

My research collaboration with KXSA and WCEL involved an initial scoping process including meetings and communications to discuss a research proposal and then to finalize the research protocol agreement. I met several times with KXSA’s legal advisor to co-develop an outline for the manuscript including the selection of legislative case studies, research questions, and key messages. The key informant interviews I conducted with KXSA staff and leaders informed my understanding of our study’s context from Kitasoo Xai’xais perspectives (see Section 2.6). The continuation of COVID-19 has impacted by ability to travel to Kitasoo Xai’xais’ remote territory during this study. The Nation closed the village of Klemtu to visitors between March 2020 and August 2021. Thankfully, I had the opportunity to meet with the core leadership and staff of KXSA (the three individuals I interviewed) in Vancouver at the outset of our partnership.
Figure 2-5. Kitasoo Xai’xais territory

Source: Map provided by KXSA, 2022
2.5.3 Conservation through Reconciliation Partnership

This research, and my development as a researcher and conservation practitioner benefited tremendously from the Conservation through Reconciliation Partnership (CRP; https://conservation-reconciliation.ca). The CRP is a decolonial research partnership that convenes a nationwide family of Indigenous leaders, Elders, and knowledge holders; researchers; and conservation and legal professionals. It is currently in year three of its “Seven Year Walk” (2019-2026) which aligns with the seven sacred Grandfather/Grandmother teachings (Love, Truth, Bravery, Courage, Honesty, Humility, Wisdom). Funded by a SSHRC Partnership Grant and matching financial and in-kind contributions, the CRP’s agenda is intended to live on
through the members and organizations as well as through IPCA Innovation Centres currently being established across the country, and the IPCA Knowledge Basket (https://ipcaknowledgebasket.ca).28 With over 50 partners, the CRP “aims to critically investigate the state of conservation practice in Canada and support efforts to advance Indigenous-led conservation in the spirit of reconciliation and decolonization” (CRP, 2021). The CRP was born in part to further develop and contribute to the work of ICE and their 28 recommendations for supporting Indigenous-led conservation in Canada as outlined in their 2018 report, We Rise Together.

I have supported various aspects of the CRP since its inception in 2017 as both a research assistant and doctoral researcher, including supporting Principal Investigator Dr. Robin Roth conceptualize the CRP and write the first phase of the SSHRC grant. These engagements have informed my research questions, methods, knowledge mobilization activities, and my understanding of Indigenous-led conservation. I participate in three of the seven “streams” of work, or working groups (Conservation Governance, Ethical Space, and Domestic Law and Policy) in which researchers, practitioners, and leaders inform a collective research agenda and collaborate on projects. For example, my engagement with the Ethical Space stream led by Dr. Danika Littlechild has informed my understanding of Ethical Space as we collectively work towards an Ethical Space framework for the CRP. In my capacity as a research assistant, I contributed to the development of early communication and knowledge mobilization plans, supported the three Working Groups (Knowledge Mobilization, Communications, and Government Relations), and managed the development of an illustrated IPCA Creation Guide29 (IPCA Knowledge Basket, 2022). In 2020, I helped launch the CRP’s Virtual Campfire Series out of an interest in creating a public platform for potential interview participants to share their

28 This is a legacy project of the CRP in collaboration with IISAAK OLAM Foundation. The IPCA Knowledge Basket is a website, designed and presented in Ethical Space, that contains diverse resources related to IPCAs. It is a “a digital space created to honour, celebrate, and catalyze Indigenous-led conservation pathways in Canada, including Indigenous Protected and Conserved Areas (IPCAs)” (IPCA Knowledge Basket, 2022).

29 The CRP developed the illustrated IPCA Creation Guide to support Indigenous Nations with IPCA establishment by providing guiding questions and examples related to eight key themes (vision, legal/laws, financing, partnerships, operations and stewardship, communications, and relationships, designing for success). As the lead author, I worked with the CRP’s Leadership Circle and partners to develop the content and provide examples and resources related to emerging and established IPCAs across the country.
insights and stories. Through these free online webinars, the CRP brought together individuals with expertise in Indigenous-led conservation to share knowledge and stories. Through the webinars, the CRP creates learning and capacity building opportunities for the broader partnership while offering honoraria for speakers.

I also liaise between the Dasiqox Nexwagweẑʔan Initiative, KXSA and the CRP by sharing information about upcoming opportunities and events of interest that are hosted by the CRP with my community partners. As a result of a research request from Dasiqox Nexwagweẑʔan Initiative, the CRP’s “Conservation Governance Stream” (working group comprised of researchers, practitioners, and Indigenous leaders) is creating a resource on Indigenous governance models for IPCAs. This governance scan builds on preliminary work I completed including governance criteria and a governance survey for IPCAs. KXSA has also identified this resource will be useful as they continue to advance IPCA establishment in their territories.

In summary, community and academic partnerships are the backbone of this study. The dissertation is one of many academic and community-based outputs intended to support Indigenous-led conservation and IPCAs.

2.6 Data Collection and Analysis

My sources of primary data were from key informant interviews I conducted and webinars I co-organized with the CRP. I conducted a total of 24 semi-structured interviews between 2018 and 2021 using purposive and snowball sampling (Table 2-1) and co-organized six webinars (Table 2-2). I also engaged in participant observation with the Dasiqox Nexwagweẑʔan Initiative. I briefly summarize these efforts below.

Key Informant Interviews

I interviewed the leadership and key staff from the Dasiqox Nexwagweẑʔan Initiative and KXSA, several federal and provincial government representatives with roles supporting Indigenous-led conservation, as well as a few representatives of prominent Indigenous organizations that support Indigenous-led conservation. I followed the advice of the research liaisons with Dasiqox Nexwagweẑʔan and KXSA who suggested who to interview with each initiative. To gather perspectives from environmental non-governmental organizations (ENGOs)
on the land use and conservation planning processes in the Great Bear Rainforest and Canadian boreal (Chapter 3) I commenced by interviewing someone intimately involved with both initiatives and proceeded with their recommendations on who to interview followed by further snowball sampling. Additionally, I interviewed a professor emeritus who conducted extensive research into the Canadian Boreal Forest Agreement (CBFA) and Ontario’s Far North planning process. I engaged my personal and professional contacts, often through the CRP, to connect with several Crown agency representatives with insights into Indigenous-led conservation from government perspectives, the lead negotiator for Thaidene Nëné (Chapter 5), and leaders of national Indigenous organizations with mandates to advance Indigenous-led conservation (Chapters 3 and 4 especially).

I conducted the interviews over phone or Zoom and recorded them with the permission of each participant. The interviews ranged from 45 minutes to over two hours with the majority lasting approximately an hour. Sample interview guides by initiative or organization type are included in Appendix B. I adapted each interview guide based on the participants’ level of interest, experience, and knowledge, and amount of time we had together (in advance of and during the interviews). I used the questions as prompts but allowed the interviews to flow into a conversational format. The interview program was not intended to be exhaustive or representative. Since this study privileges the perspectives of those closely affiliated with Dasiqox Nexwagweẓʔan and Kitasoo Xai’xais Protected Areas, and is respectful of the preferences of both initiatives to conduct select key informant interviews, the small sample sizes are justified. Similarly, the additional Crown government interviews provide supplementary context from individuals well-positioned to comment on the interview questions given their experience, mandate, or portfolios. This context was helpful for understanding some of the constraining and enabling factors that mediate IPCAs as processes of reconciliation from Crown perspectives. While I sought out gender diversity among interview participants, the small sample sizes in general combined with the direction from both community partners resulted in interviews with only men with KXSA and more interviews with women with Dasiqox Nexwagweẓʔan Initiative. I transcribed the interviews with support from research assistants and transcription software (TranscribeMe and Otter). I reviewed each recording and transcript for accuracy.
As discussed, in this dissertation I adopt an explicit practice of researcher subjectivity and positionality consistent with feminist, Indigenous, and decolonizing methodologies. In addition to the detailed positionality statement in this chapter (Section 2.2), I include positionality statements in each substantive chapter which I plan to revise and publish as manuscripts (Chapters 3 to 5). As noted, I also adopt a practice of positioning authors I introduce in the text (Ahmed, 2017; Liboiron, 2021). Consistent with these approaches, and with the consent of interview participants, I identify interview participants in the manner of their choosing in the text (i.e. in terms of affiliation rather than racial or ethnic identity or territorial affiliations). Only one interview participant requested anonymity, which I have honoured by concealing their name and affiliation as per their request. All interview participants reviewed and approved quotes attributed to them.

Table 2-1. Summary of key informant interviews

<table>
<thead>
<tr>
<th>Initiative/Organization Type</th>
<th>Key Informant Interviews</th>
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<tbody>
<tr>
<td>Dasiqox Nexwagweżʔan Initiative (B.C.)</td>
<td>5</td>
</tr>
<tr>
<td>Kitasoo Xai’xais Stewardship Authority (B.C.)</td>
<td>3</td>
</tr>
<tr>
<td>Thaidene Nëné (NWT)</td>
<td>1</td>
</tr>
<tr>
<td>Representatives of national Indigenous organizations</td>
<td>3 (3 interviews, 2 individuals)</td>
</tr>
<tr>
<td>Representatives (past and present) of Environmental Non-Governmental Organizations</td>
<td>5</td>
</tr>
<tr>
<td>Academic (commentators on land use planning)</td>
<td>2</td>
</tr>
<tr>
<td>Parks Canada</td>
<td>3</td>
</tr>
<tr>
<td>Environment and Climate Change Canada</td>
<td>1</td>
</tr>
<tr>
<td>BC Parks</td>
<td>1</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>24</strong></td>
</tr>
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</table>

**Webinars**

My involvement with the CRP’s Virtual Campfire Series is an enactment of research reciprocity and knowledge mobilization. Researchers often stand to benefit the most from interviewing knowledge holders and Indigenous leaders and staff are often over-extended and not appropriately compensated for their time. Aware of the prevalence of research and interview fatigue in many Indigenous communities, including among my research partners, I sought to create knowledge sharing opportunities that would benefit a large audience (including their communities as well as other Indigenous Nations) and create recordings the panelists could share.
as they see fit. I hoped this might reduce future research fatigue by other researchers inquiring about similar topics. I played a lead role organizing and hosting two webinar series with the CRP, one on IPCA governance, and another on legal innovations in late 2020. These thematic areas were informed by my community research partnerships and are a shared area of interest among many CRP partners including Indigenous Nations. With respect to our collaboration, the Dasiqox Nexwagweẑʔan Initiative identified Indigenous governance models and reconciliation through IPCAs as a primary area of interest whereas Kitasoo Xai’xais Nation identified legal innovations and legislative reform in support of IPCAs as their main interest. In total, I led the organization of and co-hosted six webinars (three in each series and each 2 hours long) covering various topics ranging from IPCA governance arrangements, the role of planning, Indigenous and natural law, and case studies of Tla-o-qui-aht Tribal Parks and Thaidene Nêné. The webinar recordings are available on the CRP’s website\textsuperscript{30} and YouTube channel\textsuperscript{31}. These dialogues informed my understanding of Indigenous governance, legal, and knowledge systems as they pertain to conservation and IPCAs and land use planning.

\textsuperscript{30} https://conservation-reconciliation.ca/virtual-campfire
\textsuperscript{31} https://www.youtube.com/channel/UCAqSD1Q8q8vrBNhfcOTrW-Q/featured
<table>
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<th>Webinar Title</th>
<th>Speakers</th>
<th>Date</th>
<th>Attendees</th>
<th>Views*</th>
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</thead>
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<tr>
<td><strong>Legal Innovations Stream: Co-Hosted by CRP and West Coast Environmental Law (WCEL)</strong></td>
<td><strong>Indigenous and Natural Law: Foundations of IPCAs</strong>&lt;br&gt;- Elder Albert Marshall (CRP Elder’s Lodge)&lt;br&gt;- Lisa Young (Unama’ki Institute for Natural Resources and CRP Leadership Circle)&lt;br&gt;- Clifford Paul (Unama’ki Institute for Natural Resource)&lt;br&gt;- Tuma Young (Indigenous Law Institute, Cape Breton University)</td>
<td>Sept. 29, 2020</td>
<td>158</td>
<td>664</td>
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<td><strong>Demystifying the Doctrine of Discovery</strong></td>
<td>**Elder Larry McDermott (CRP Elder’s Lodge)&lt;br&gt;John Borrows (Indigenous Law, University of Victoria)&lt;br&gt;Aimée Craft (Faculty of Common Law, University of Ottawa)&lt;br&gt;Larry Innes (CRP Domestic Law and Policy Lead)&lt;br&gt;Rayanna Seymour-Hourie (WCEL Staff Lawyer and RELAW Manager)</td>
<td>October 13, 2020</td>
<td>167</td>
<td>1,044</td>
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<td><strong>Case Study: Thaidene Nëné</strong></td>
<td>Negotiations team for Thaidene Nëné:&lt;br&gt;- Steven Nitah (Senior Advisor, Indigenous Leadership Initiative, and CRP Leadership Circle)&lt;br&gt;- Stephen Ellis (Senior Advisor, Thaidene Nëné&lt;br&gt;- Larry Innes (CRP Domestic Law and Policy Stream Lead)</td>
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<td>Governance Stream: Co-Hosted by CRP and IISAAK OLAM Foundation</td>
<td></td>
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<td></td>
<td></td>
</tr>
</tbody>
</table>
| **Governance of IPCAs** | • Elder Larry McDermott (CRP Elder’s Lodge)  
• Monica Mulrennan (CRP Governance Stream Lead)  
CRP Leadership Circle members and former ICE core members:  
• Steven Nitah  
• Marilyn Baptiste  
• Lisa Young  
• Eli Enns | October 9, 2020 | 144 | 391 |
| **Land Relations Planning and IPCAs** | • Elder Joe Copper Jack (Senior Planning Coordinator, Yukon Land Use Planning Council)  
• Marilyn Baptiste (Former Chief, Xeni Gwet’in First Nation, and CRP Leadership Circle)  
• Steven Nitah (Senior Advisor, Indigenous Leadership Initiative, and CRP Leadership Circle)  
• Russell Myers Ross (Former Chief of Yunesit’in Government, and Dasiqox Tribal Park Initiative) | October 22, 2020 | 182 | 401 |
| **Case Study: Tla-o-qui-aht Tribal Parks** | • Elder Joe Martin (Tla-o-qui-aht Chief and Council, and frontline Tribal Parks advocate)  
• Eli Enns (Co-founder of the Ha’uukmin Tribal Park, CRP Leadership Circle, IISAAK OLAM Foundation)  
• Terry Dorward (Tla-o-qui-aht Tribal Parks Coordinator, Tla-o-qui-aht Chief and Council), | November 13, 2020 | 90 | 441 |
Participant Observation

As described above, I conducted participant observation with the Dasiqox Nexwagwež?an Initiative. By attending meetings and gatherings related to Dasiqox Nexwagwež?an and Tsilhqot’in governance and culture I have witnessed the ongoing efforts of the Tsilhqot’in communities to revitalize and pass down their culture, knowledge, and laws; protect and enhance their territories; and develop sustainable economic opportunities and contribute to community well-being. However, my main motivation in participating in these activities has been to build relationships, be a respectful learner, and contribute assistance where possible. At KXSA’s invitation, I also had the opportunity to work in a facilitator capacity with Coastal First Nations, a coalition of eight First Nations including Kitasoo Xai’xais Nation as they discussed approaches to legislative reform in support of Indigenous-led conservation. While the Nations’ presentations and ensuing conversations provided valuable context for the legal innovations study, I did not treat that professional experience as a source of data (Chapter 5).

Qualitative Analysis

I used NVivo to conduct content and context analysis on my primary interviews using deductive and inductive coding techniques.\(^{32}\) Using axial coding based on my research questions, I identified a number of themes and topics (codes) I was interested in, out of which numerous sub-codes (more detailed or related topics) emerged (Cope, 2009). I pre-identified some of these sub-codes (axial codes) while others emerged as in vivo codes from participants’ remarks (Cope, 2009). To a lesser extent I also used open coding to identify recurring themes or topics interview

\(^{32}\) Content analysis is quantitative and involves counting the number of times a particular code (e.g. term, idea, or phrase) appears, for example, in an interview or project (Cope, 2009), and can be visually depicted such as through word clouds. Context analysis, which I relied on more heavily, involves identifying “themes, patterns, correspondences, and inconsistencies…built upon through careful reading, systematic coding, and recursive critical analysis” (Cope, 2009, p. 352).
participants brought up (Cope, 2009). Because of the iterative nature of coding (i.e. themes emerging throughout the analysis; Locke et al., 2022), I conducted two rounds of non-sequential coding on each of the primary (18) interviews to account for themes that emerged following the first round of coding. I treated the six interviews with representatives of Crown governments as supplementary data, which I did not code. The largest thematic coding trees were “IPCAs” and “reconciliation” (Appendix C). I branched IPCAs into an additional 28 sub-codes (e.g., “assertions of rights and title,” “Indigenous governance and responsibilities,” and “processes of reconciliation”). I organized the reconciliation code tree into three main sub-codes (“definitions,” “critiques and skepticism,” and “potential and opportunity”). I branched the “reconciliation: critiques and skepticism” sub-code into an additional 19 sub-codes (e.g., “all talk no action,” “settler fears and racism,” and “incompatible with ongoing resource extraction”). I branched the “reconciliation: potential and opportunities” sub-code into an additional 34 sub-codes (e.g., “must be Indigenous-led,” “interspecies reconciliation,” and “deferring tenures”). As Kovach (2009, p. 35) points out, coding “is not an Indigenous epistemological approach to data analysis” and can feel like an extractive process whereby “findings” are filtered out of “the context of people’s stories” (p. 53). Although my community collaborators opted not to participate in a methodological review of the data analysis, both Dasiqox NexwagweREM Initiative and KXSA reviewed all dissertation content relevant to them (and were invited to comment on the dissertation more broadly). Their review and my subsequent edits mitigated the possibility of erroneous interpretations of their comments.

2.7 Knowledge Mobilization

An important aspect of critical research methods concerned with reciprocity and transformative change is knowledge mobilization. The goal of knowledge mobilization is to translate new knowledge or evidence-backed research into implementation, for example through policy changes or improved practices. Knowledge mobilization involves the creation of relevant and tailored outputs to facilitate uptake of new knowledge by intended audiences. Through community-engaged research and my collaborations with the CRP, I have conducted integrated knowledge mobilization by allowing collaborators to help shape the research, identify questions and outputs relevant to their contexts throughout the study. I have had the opportunity to test key
messages and methods with some target audiences through the CRP via relevant collaboration streams, the Knowledge Mobilization Working Group, and the Leadership Circle. My involvement with the CRP’s Conservation Governance Stream contributed to IPCA governance scan underway which responds to the interests of the Dasiqox Nexwagwežʔan Initiative as well as being of interest to KXSA. End-of-project knowledge mobilization activities I may pursue include publishing layperson summaries or editorials of select chapters/studies on the CRP’s blog and accessible outlets such as The Conversation, a policy brief for targeted B.C. ministries with a role in conservation (regarding the legal research conducted with Kitasoo Xai’xais Nation), community newsletter write ups and presenting to the Dasiqox Nexwagwežʔan Initiative and KXSA. Future knowledge mobilization activities I am considering are a targeted lunch and learn for B.C. provincial ministry staff and leaders regarding the legislation study findings and convening a workshop or focus group on Indigenous conservation governance models.

2.8 Conclusion

In this chapter I identified my research objectives and questions and discussed my approach to collaborative research with the Dasiqox Nexwagwežʔan Initiative and KXSA. Informed by critical methodologies and CBR, as well as my engagement with the CRP, I have conducted community-engaged research with two Indigenous-led IPCA initiatives in the spirit of decolonial partnerships and reciprocity. These methods informed my conceptual framework and facilitated a critical analysis of my role as a researcher, conservation practitioner, and a Canadian citizen with responsibilities to all my relatives (human and otherwise) and the territories I call home. Developing my capacity as a decolonial scholar and practitioner is an ongoing effort that involves learning, unlearning, and unsettling. I am indebted to many Indigenous scholars and leaders as well as to my research partners who informed the research questions and scope, case studies, methods, analysis, and knowledge mobilization plans. It is my deepest hope that these efforts to think critically about conservation and reconciliation are in service to Indigenous-led conservation efforts across the country, and to Dasiqox Nexwagwežʔan and Kitasoo Xai’xais Protected Areas in particular.
3 From Land Use Planning to Indigenous-led Conservation: Insights from the Great Bear Rainforest, the Canadian Boreal, and Ontario’s Far North

Abstract
Indigenous Protected and Conserved Areas (IPCAs) are a newly recognized form of Indigenous-led conservation in Turtle Island/Canada. Compared to Crown-led environmental governance processes like land use planning, IPCAs offer greater opportunities for Indigenous Nations to advance their governance priorities and visions for their lands, waters, and communities. Indigenous Nations establish IPCAs under their own laws and choose whether or not to partner with Crown governments and environmental non-governmental organizations (ENGOs).
Increasingly, the conservation sector and Crown governments are supporting IPCAs as a means of expanding protected area coverage while advancing reconciliation with Indigenous Peoples. I argue that insights from past processes offer clues for how Crown governments and ENGOs can support, and not undermine, Indigenous governance and IPCAs. I analyze the planning processes associated with the 2016 Great Bear Rainforest Agreement in British Columbia, the 2010 Canadian Boreal Forest Agreement, and the Far North Act, 2010 of Ontario, focusing on the factors that shaped the participation, governance, and authority of Indigenous Nations and the planning outcomes. The shortcomings of these processes are symptomatic of Western land use planning models and related to oversights by Crown governments and the conservation sector.
To help actualize a “paradigm shift in conservation” ENGOs and Crown governments can implement the guidance of Indigenous organizations, UNDRIP, and best practices in engagement and ensure lessons from past processes are fully integrated. Otherwise, as recent processes suggest, the Crown governments and the conservation sector risk asserting a new array of colonial influences that could undermine or coopt Indigenous-led conservation.
3.1 Introduction

Indigenous Protected and Conserved Areas (IPCAs), a newly recognized form of Indigenous-led conservation in Turtle Island/Canada, offer a promising pathway of environmental governance for Indigenous Nations throughout the country. IPCAs reflect an array of motivations leading Indigenous Nations and communities to advance their visions for their territories through this new policy pathway and protected area designation (Tran, Ban, et al., 2020). Unlike Crown protected areas which have historically excluded and marginalized Indigenous Peoples (Binnema & Niemi, 2006; Sandlos, 2005, 2008) and typically limit Indigenous governance to advisory roles in co-management (Sandlos, 2014; Tran, Neasloss, et al., 2020; Youdelis, 2016), IPCAs reflect the centrality of Indigenous priorities for, and perspectives about, their lands, waters, and communities. Indigenous Nations lead the planning, establishment, governance, and monitoring activities in their IPCAs. The Indigenous Circle of Experts (ICE), an Indigenous-led advisory group tasked with making recommendations to Crown governments on how they could meet protected area targets while advancing reconciliation with Indigenous Peoples, declared IPCAs to share three fundamental characteristics: they are Indigenous-led, represent a long-term commitment to conservation, and elevate Indigenous responsibilities as well as rights (2018, p. 36). While some Indigenous Nations may elect to partner with Crown governments, environmental non-governmental organizations (ENGOs), and other actors to establish, finance, and govern their IPCAs, there is no requirement for them to do so. Further, the majority of IPCAs in the country are legal innovations whereby they are established using Indigenous laws but may not be additionally protected under Crown

33 In an effort to decolonize language and geographical place names I use the name of the Indigenous territory or treaty number first followed by the English name. Turtle Island is often used to refer to North America, thus, when referring to Turtle Island I specify whether I mean North America or Canada. The name Turtle Island originates from a creation story about Sky Woman who falls from the sky and is offered sanctuary on a turtle’s back upon which the world is built. This story originates from Anishinaabe and Haudenosaunee peoples of the Great Lakes. While Turtle Island is not a pan-Indigenous name for North America or Canada (a multitude or creation stories exist throughout Turtle Island) it is quite widely used, including in some conservation circles. I use it here to challenge the primacy of the Canadian state as the supposedly undisputed sovereign Nation with sole authority to govern the lands and waters that came to be known as Canada.

34 Henceforth, I refer to “Indigenous Nations” in an encompassing way that includes Indigenous Nations and communities, and their governments, across Turtle Island/Canada. When referring to specific Indigenous Nations or communities I adopt their preferred naming convention where known.
legislation. As I discuss in Chapter 5, this presents a host of legal challenges for Indigenous Nations who must often contend with Crown-allocated tenures and licenses that enable resource and energy extraction and development in their IPCAs—even if these activities are inconsistent with their Indigenous legal orders.

In this chapter, I contextualize the rise of IPCAs in the history of land use planning in Turtle Island/Canada because, until recently, this was one of few mechanisms of recognized environmental governance available (to varying extents) to Indigenous Nations to advance their priorities in their territories. However, as I demonstrate through an analysis of three major land use planning processes that unfolded over the past two decades, state-led land use planning initiatives have often fallen short of Indigenous Peoples’ expectations and undermined their jurisdiction, governance, and authority. I contend that these inadequacies are part of the galvanizing conditions motivating some Indigenous Nations to turn to IPCAs, which offer stronger terms of engagement and leadership than Crown-led planning processes and protected areas in Turtle Island/Canada. Further, I argue that insights from past planning processes in B.C.’s Great Bear Rainforest (GBR), the Canadian boreal forest, and Ontario’s Far North are applicable to the IPCA context in Turtle Island/Canada and should be heeded if IPCAs are to be pathways of reconciliation as ICE and Crown governments have suggested (ICE, 2018; Pathway to Canada Target 1, n.d.). As “holistic and integrated approaches to stewardship” (ICE, 2018, p. 62), IPCAs offer a flexible approach to Indigenous Nations who tailor the purpose and scope of their IPCAs to their unique circumstances and objectives. Since IPCAs are not prescriptive, Indigenous Nations are pursuing a host of initiatives through them including ecosystem protection and conservation (e.g. Tahltan IPCAs), language revitalization (e.g. the Mi’kmaw’s Sespite’tmnej Kmit Knu Conservancy), economic development (e.g. Dasiqox Nexwagweʔan

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35 This is not to suggest that Indigenous Peoples do not have the knowledge, tools, experience, or expertise to govern their territories. On the contrary, they have been doing so for far longer than Crown and settler colonial governments in Turtle Island/Canada (Clogg et al., 2016). However, many Indigenous environmental governance systems are not recognized by Crown governments, as evidenced by claims of terra nullius by early colonial governments. Land use planning, to varying degrees across the country, is one mechanism by which Crown governments have invited Indigenous Nations to participate in environmental governance, although collaborative efforts vary considerably between jurisdictions as I discuss here.
IPCA), caribou conservation (Seal River Watershed Initiative), and the restoration of berry harvesting patches (Red River Métis IPCAs), to name a few.³⁶

First, I provide a brief overview of land use planning before discussing my methods. I then offer an analysis of the three case study planning processes with attention to how Crown agencies and the conservation sector engaged and collaborated with Indigenous Nations, and under what terms. Drawing on interviews with individuals knowledgeable about, or previously involved with, the case studies, I analyze the lessons learned by Crown governments and ENGOs. Finally, I carry these insights forward into an analysis of how Crown governments and the conservation sector can support the advancement of IPCAs, and the Indigenous Nations establishing them, without reverting to the same dynamics, or being impeded by the same challenges, that characterized previous land use planning processes. In doing so, I consider the extent that land use planning processes in Canada have primed the conservation sector—ENGOs and Crown governments in particular—to support Indigenous-led conservation. These case studies are situated at the intersection of land use planning, conservation, and development as well as the confluence of conservation and the rights, governance, and authority of Indigenous Nations. Revisiting these three planning initiatives is timely given the recent surge in Indigenous-led conservation, including the associated investments and emerging partnerships among Indigenous and Crown governments and ENGOs that are likely to increase.

### 3.1.1 Overview of land use planning

Land use planning is an important mechanism of environmental governance in Turtle Island/Canada—and a practice that has marginalized Indigenous Peoples in settler colonial (i.e. Commonwealth) countries by ignoring Indigenous knowledge and rights and failing to strengthen Indigenous governance over their territories (Sandercock, 2004). Over the past three decades, provincial and territorial governments have conducted land use planning to balance

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³⁶ For more information about these initiatives see:  
https://tsi.tahltan.org/project/tahltan-indigenous-protected-and-conserved-areas-ipcas-project/  
https://sealriverwatershed.ca/the-initiative/  
https://www.youtube.com/watch?v=IpoAxRNyR_0
socio-economic, political, ecological, and cultural priorities and to provide economic certainty for industry. In Turtle Island/Canada, land use plans “typically contain high-level objectives and policies for regional-scale land use, growth management, environmental protection, regional-scale infrastructure and economic development” (OECD, 2017, p. 1). The protected areas that state-led planning processes enable are counterposed to areas targeted for extractive industries and development. This practice of zoning\(^\text{37}\) reduces the complexity of Indigenous relationships to their territories through compartmentalization (e.g. Booth & Muir, 2011) and reinforces a nature-culture binary prevalent in Western and Eurocentric ideologies that inform mainstream development and conservation agendas. As such, land use planning and conservation are interrelated modes of environmental governance in Turtle Island/Canada.

In conservation, Crown governments privilege preservationist, recreationalist, and capitalist values over Indigenous ontologies that maintain that people are part of nature (Youdelis, 2016). Crown protected areas such as provincial, territorial, and national parks are intended to preserve the ecological integrity and recreational values contained within their borders. Typical of many Indigenous worldviews in Turtle Island/Canada, cultivating symbiotic relationships and practices that support ecological integrity and community well-being are paramount and supported by Indigenous legal and governance systems (Clogg et al., 2016; Innes et al., 2021). Relational ontologies that inform Indigenous environmental governance systems differ from the decidedly Western philosophical approach to planning. Western planning models have been used as a tool of settler-colonialism to appropriate wealth from Indigenous territories while simultaneously excluding Indigenous Peoples from decision-making processes (Matunga, 2013; Sandercock, 2004). As Leonie Sandercock (unmarked)\(^\text{38}\) has pointed out, planning is part of an “ordering of urban and regional space by a whole range of spatial technologies of power such as the laws of private property, the practices of surveying, naming, mapping” (2004, p. 118). Hirini Matunga (Māori) describes planning as a future-oriented practice and “until recently

\(^{37}\) ICE (2018) does however suggest that Indigenous Nations engaged in IPCA planning in their territories may wish to pursue a zoning approach to decide which kinds of activities can occur in different parts of the territory.

\(^{38}\) I follow Max Liboiron’s (Red River Métis/Michif/Treaty 6 territory) guidance on naming practices when referring to and situating authors (2021, pp. 3–4). The first time I introduce an author in a chapter I note their self-identification, regardless of their ethnicity, following their name. When I could not find this information, I signal the author as “unmarked,” as per Liboiron’s example.
the locus of power and ultimate right to determine this future rested almost exclusively with colonizing non-Indigenous settler governments, either through the power of the musket or the power of law, policy, planning, and technology” (2013, p. 4). Despite its shortcomings, state-led land use planning has been a mechanism by which Indigenous Nations have exercised jurisdictional authority in their territories and participated in environmental governance with Crown (i.e. federal, provincial, and territorial) agencies. Generally, Indigenous Nations have not been at the forefront of these planning initiatives despite the extent to which resulting decisions impact their communities and territories, and regardless of their expertise in environmental governance. 

Despite advances in Crown-Indigenous relationships over the past several decades in Canada, Crown governments have inconsistently engaged with Indigenous Nations on land use decisions and environmental governance. In 1997, the Delgamuukw Decision by the Supreme Court of Canada affirmed the existence of Aboriginal title in British Columbia (B.C.) which included not only constitutionally protected rights to hunt, fish, and gather but also a right to the land. The court clarified the Crown has a duty to consult Indigenous Peoples and potentially compensate them when their rights are infringed upon. Subsequent case law has strengthened the Delgamuukw Decision. For example, in 2014 the Supreme Court of Canada affirmed Tsilhqot’in title to a portion of their asserted territory in B.C.. These court rulings, along with many others, complement the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), for which B.C. and Canada introduced implementation legislation in 2019 and 2020 respectively. Various UNDRIP articles emphasize the importance of state consultation with Indigenous Peoples as a means of seeking their free, prior, and informed consent (FPIC) before potentially affecting them or their territories (see especially Article 32). Articles 26 and 29 relate directly to conservation while Articles 3, 20, 23, 32 reinforce the rights of Indigenous Peoples to plan for and participate in development in their territories (UN General Assembly, 2008).

The impetus to consult with and seek the consent of Indigenous Peoples over land use decisions in Canada is strong; yet only Crown governments have a legal duty to do so.

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39 Exceptions are land use plans in the Northwest Territories, which are pursuant to Aboriginal land, resources, and self-government agreements, and in the Yukon where planning generally only occurs in the territories of First Nations’ who have signed final agreements, and where local First Nations must sign off on land use plans.
Meanwhile, ENGOs, who can be influential actors, do not have a legal duty to consult and historically have often not upheld an ethical duty to ensure Indigenous Nations—at minimum—consent to their conservation or planning initiatives. ICE (2018, p. 62) notes that the interests and perspectives Indigenous Peoples are inadequately incorporated in management decisions and that “free, prior and informed consent (FPIC), as defined by a given Indigenous government, must be obtained in land use planning and watershed planning processes.” In the context of land use planning, ICE (p. 63) calls for Indigenous-led or collaborative planning as well as the implementation of “shared decision-making models.” Yet, the lack of Indigenous engagement and consent—combined with a propensity to ignore the authority of Indigenous governments—has contributed to exclusionary forms of planning and conservation that have negatively affected Indigenous Peoples nationwide. In this article, I interrogate the interconnected practices of land use planning and conservation in Canada through case studies in B.C. and Ontario. Situated in this context, I explore the rise of Indigenous-led conservation and how IPCAs could beneficially shift relationships between the conservation sector and Indigenous Nations.

Over the past three decades, most Canadian provinces and territories formalized land use planning and to varying extents engaging Indigenous Nations in these processes. ⁴⁰ For example, the Province of B.C. initiated land use planning in the early 1990s and further institutionalized the practice in the early 2000s.⁴¹ In B.C., where 94% of the territorial land base is considered public, or “Crown” land—which overlooks pre-existing Indigenous sovereignty and ongoing Indigenous nationhood—nearly 90% of those lands are included in land use plans (Province of B.C., 2021c). Recently, the province engaged Indigenous governments, communities, and stakeholders to modernize land use planning with a $16 million investment between 2018 and 2021 to update existing plans and generate new ones (Province of B.C., 2021d). Meanwhile, in Ontario, land use planning was formalized in 1990 with the creation of the Planning Act, and the updated Provincial Policy Statement, 2014 provides further guidance although neither make much mention of Indigenous Peoples. Land use planning in Ontario falls under two major

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⁴⁰ I deduced this timeframe by examining the planning-related websites of every Canadian province and territory. Most jurisdictions appear to have commenced formal land use and regional planning processes between the 1990s and early 2000s.

⁴¹ Fewer than 5% of First Nations in B.C. participated in the first 20 land and resource management planning processes in the province (Morton et al., 2012).
categories: northern lands designated under the *Far North Act, 2010* (Far North Act) which covers the boreal region inhabited primarily by Indigenous Peoples, and land use plans to the south, which are designated under the *Public Lands Act*. Both British Columbia and Ontario provincial governments have promoted land use planning as an avenue for addressing diverse interests while facilitating economic development and environmental protection (Ministry of Natural Resources and Forestry, 2020a; Province of B.C., 2021d). The Province of B.C. (2021d) in particular has identified reconciliation as a primary driver for modernizing the planning process, in line with their commitment to UNDRIP and the *B.C. Declaration on the Rights of Indigenous Peoples Act* (DRIPA).42

Indigenous Nations throughout Turtle Island/Canada have strategically engaged in Crown-led land use planning processes for various reasons (e.g. to assert jurisdiction, enact their responsibilities to protect their lands and waters, and participate in decision making processes affecting their territories); however, the tool has multiple shortcomings. First, planning is steeped in a Western tradition that promotes Eurocentric norms and values and is complicit in settler colonialism in Canada (Booth & Muir, 2011; Galbraith, 2014; Jojola, 2013; Lane, 2006; Matunga, 2013; Porter et al., 2017; Reo et al., 2017; Takeda & Røpke, 2010). Planners often marginalize Indigenous perspectives by asserting supposedly universal ideals about development, management, conservation, institutional strengthening, and capacity-building (Howitt & Suchet-Pearson, 2006). Secondly, by reinforcing state sovereignty, planning has contributed to political processes that undermine Indigenous governance, legal, and knowledge systems (Bowie, 2020; Porter & Barry, 2016; Reo et al., 2017). For example, state paternalism manifests in planning processes in which the state frames Indigenous Peoples as stakeholders, which is a contravention of inherent, Treaty, and Aboriginal rights and has been refuted by Indigenous Peoples (Bowie, 2020; Reo et al., 2017). Thirdly, land use planning reproduces capitalist relations of commodification and accumulation through resource extraction and by mobilizing notions of public and private land (Graben, 2016; Hoogeveen, 2015; Porter & Barry, 2016; Yellowhead Institute, 2019). Thus, contrasting epistemological and ontological

42 The province notes that, “Land use planning will be carried out in partnership between the B.C. government and Indigenous governments. The values, traditions, knowledge, and cultural practices of Indigenous people will be an integral component of planning processes” (Province of B.C., 2021d).
foundations inform the value systems held by different parties at planning tables as well as the methods they employ. Through three case studies I argue that Indigenous Nations in Canada have been inconsistently recognized as legitimate governments and knowledgeable actors in processes that profoundly affect their territories, thereby constraining opportunities for collaborative governance and reconciliation.

Despite these challenges, Indigenous Nations in Canada continue to participate in state-led land use planning processes, often while critiquing, subverting, and reorienting these processes to better reflect their goals (e.g. Townsend, 2009). Increasingly, Indigenous Nations are also developing their own plans that center their visions and priorities for their territories as alternatives to state-led planning processes. For example, the Ahousaht First Nation released their Land Use Vision in 2017 for their territory in Clayoquot Sound, B.C.. Chief Shawn A-in-chut Atleo described how “the community values expressed during the planning process reaffirmed our traditional teachings that the Ahousaht people are inextricably linked to the natural world that we refer to as our hahoulthlee” (Maaqutusiis Hahoulthee Stewardship Society, 2017). In neighbouring Tla-o-qui-aht Nation, Land Vision Coordinator Gisele Martin describes the Nation’s work to advance their Land Use Vision as an effort “to phase out use-centric colonial mismanagement and to amplify, promote and practice cultural lifeways, the land care practices of our culture, and to continue protecting the life-giving forests and diverse gardens of Tla-o-qui-aht” (Nature United, 2020). As the Canadian-based Indigenous Leadership Initiative (ILI; n.d.) explains, “making decisions about the future of the land and holding the pen when lines are drawn on the map are powerful elements of Indigenous Nationhood.”

The rise in Indigenous-led land use and land relations (or relationship) planning reflects the intent of Indigenous Nations to decide the future of their territories, enact cultural responsibilities, and articulate their rights43 (Indigenous Leadership Initiative, n.d.; Kehm et al., 2019). The

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43 According to Valérie Courtois, Director of the ILI Indigenous-led planning and conservation initiatives tend to be bolder than Crown-led initiatives. On average, Indigenous-led planning initiatives in Canada designate at least 60% of the planning area for conservation, whereas Crown-led land use planning processes designate an average of 12%. Courtois notes the ability of Indigenous Nations to designate protected areas through land use planning processes depends on their location and the degree of impacts from colonialism, extractive industries, agriculture, and other forms of development. For example, remote Indigenous Nations who have fewer established land users in their territories have more options for planning and conservation. However, requiring or expecting Indigenous Nations to protect 100% of their
underlying worldviews and motivations guiding land *use* versus land *relations* planning are evident in the names themselves. Where one planning paradigm is interested in managing resources as commodities, the other emphasizes respectful relationships with the animate world (Artelle et al., 2018; Bhattacharyya & Slocombe, 2017; Howitt & Suchet-Pearson, 2006; Jojola, 2013; Kimmerer, 2013, 2017). By “holding the pen,” Indigenous Nations may resist being conscripted into planning processes as stakeholders alongside other interest groups, a diminished role inconsistent with the evolving principles of Crown-Indigenous relationships.

### 3.2 Methods

As a second-generation Canadian citizen, and a white woman, of European descent, I write from the perspective of someone committed to advancing possibilities for reconciliation through environmental governance processes like land use planning and conservation in Turtle Island/Canada. In this chapter I challenge power relations that perpetuate settler colonial practices, policies, and perspectives that continue to disenfranchise Indigenous Peoples in processes affecting their territories. Drawing on a critical political ecology approach, I engage with these land use planning processes as local sites through which power relations, environmental narratives, and governance practices operate by attending to influences from various scales (e.g. local, national, and global). By foregrounding Indigenous critiques, particularly in the context of the CBFA and the Far North Planning Initiative, I attempt to amplify Indigenous perspectives that are often lost in mainstream narratives that purport these processes to have been successful and to have adequately engaged Indigenous Nations. Viewing these planning processes as ideologically-driven sites of development and conservation, I confront the power relations and factors at multiple scales that influence their outcomes.

In this chapter, I draw primarily on a literature and document review of land use planning processes in the GBR in B.C., the CBFA, and Far North Planning Initiative in Ontario. I analyzed relevant government websites as well as planning documents, policies, and legislation with a focus on how Crown agencies, planners, and key stakeholders engaged Indigenous Nations (process). I also examined how Indigenous interests in planning were characterized and

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Courtois, 2021, interview.}
addressed (methods), and what each land use planning initiative achieved ecologically and politically (outcomes). This review is supplemented by insights from 11 key informant interviews I conducted between 2018 and 2021 with staff (past or present) of prominent Canadian ENGOs, or researchers and conservationists with previous involvement with the GBR or CBFA agreements, as well as three individuals working with Indigenous NGOs that focus on Indigenous leadership in conservation.44

These engagements with the literature, planning documents, and key informants are enhanced by my participation in a nation-wide network of Indigenous leaders, conservation practitioners, researchers, and lawyers across Canada united in advancing Indigenous-led conservation,45 as well as from community-informed research conducted with three First Nations in B.C. on Indigenous-led conservation. Collectively, these insights and engagements are situated within critiques of Western planning and conservation models (Section 3.5). I analyzed the interviews with attention to the enabling and constraining factors contributing to the outcomes of the planning processes, especially as they pertained to Crown and ENGO engagement and relationships with Indigenous Nations. Turning to the context of Indigenous-led conservation, I considered key informants’ perceptions of the success of both planning initiatives and lessons learned, combined with insights from the literature. My analysis was informed by best practices in consultation and decolonial partnerships including the Indigenous Circle of Experts’ (ICE’s) 2018 report and UNDRIP. I now proceed with a discussion of each case study including an overview of the planning processes, engagement and collaboration processes, and a synopsis of key insights relevant for the conservation sector, which I then carry over into a discussion about Indigenous-led conservation and IPCAs.

44 In this dissertation, I adopt an explicit practice of researcher subjectivity and positionality consistent with feminist, Indigenous, and decolonial methodologies (Chapter 2). Consistent with this approach, and with the consent of my interview participants, I have chosen to identify key informants in the manner of their choosing. I respect the privacy of the one interview participant who requested anonymity by not identifying them. All interview participants reviewed and approved quotes attributed to them.

45 The Conservation through Reconciliation partnership is a seven-year program of work funded in part by the Social Sciences and Humanities Research Council. My participation in various working groups, webinars, and knowledge sharing events informs my research and conservation practice.
3.3 Great Bear Rainforest Agreement, British Columbia

3.3.1 Planning overview

In the late 1990s, ENGOs branded the Central and North Coast of B.C. the “Great Bear Rainforest\(^{46}\)” to draw attention to a large swath of unique coastal ecosystems that have been a site of intense environmental conflict and change (Figure 3-1). ENGOs were instrumental to re-mapping the region and elevating it to global significance using market tactics and strategic negotiations (Affolderbach, 2011; Clapp et al., 2016; Page, 2014; Shaw, 2004). As the largest contiguous and intact temperate coastal rainforest remaining worldwide, the GBR has enchanted local and global imaginations. It has come to represent an iconic and remote wilderness that simultaneously allows for protected areas and “lighter touch” logging practices, while acknowledging the rights of Indigenous Peoples and the importance of local economic development. The GBR encompasses 100 intact watersheds, old-growth forests, more than 2,500 annual salmon runs, kelp forests, six million migratory birds, endemic coastal wolves, the rare Kermode or white Spirit Bear, and ancient First Nations’ burial and cultural sites (Coastal First Nations, 2020; Province of B.C., 2020b; M. Smith & Sterritt, 2010). The region consists of territories belonging to 26 First Nations and is home to approximately 18,000 inhabitants, about half of whom are Indigenous (McGee et al., 2010; Province of British Columbia, 2020). These First Nations are resilient cultures with diverse governance systems, as well as vibrant legal traditions and knowledge systems that inform contemporary stewardship practices.

Following 20 years of negotiated compromises among ENGOs, the forestry industry, First Nations, and the provincial government, in 2016 the Province of B.C. and multiple First Nations signed the final agreement building on interim agreements in 2006 and 2009 (Table 3-1, Figure 3-2, and Appendix D). The 2016 Great Bear Rainforest Land Use Order and the Great Bear Rainforest (Forest Management) Act (collectively the “Great Bear Rainforest Agreement,” which encompasses the earlier agreements) cover 64,000 km\(^2\) and protect 85% of the total forest (including 70% of remaining old-growth) under “conservancies.” Conservancies were a new provincial protected area designation established through the GBR planning process in

\(^{46}\) The name also strategically evokes a vision of pristine wilderness although the region has co-evolved with coastal Indigenous Peoples for millennia and in recent centuries has been modified by extensive logging.
collaboration with local First Nations.\textsuperscript{47} Logging is permitted in 15\% of the area (Province of B.C., 2020a, 2020d). The entirety of the GBR is subject to ecosystem-based management which is intended to balance ecological, socio-economic, and cultural interests.\textsuperscript{48} The GBR Agreement is often “heralded as one of the most important conservation initiatives in the world” (Curran, 2017, p. 813) and an important land use planning process that balanced conflicting interests while advancing Indigenous rights and governance (Affolderbach et al., 2012; Cullen et al., 2010; Davis, 2009; ICE, 2018; Low & Shaw, 2012; McGee et al., 2010; M. Smith & Sterritt, 2007). Counter narratives also circulate, suggesting that despite advances in Indigenous-Crown and Indigenous-ENGO relationships, Indigenous governments were not at the planning table to the extent the dominant triumphant narrative suggests (Gies, 2019; Rumsey 2018, interview; Thomas-Muller in Kittmer, 2013, pp. 99–100). Further, some First Nations, like Kitasoo Xai’xais Nation, whose territory is in the GBR, critique conservancies for their insufficient co-management arrangements that restrict Indigenous governance to a recommendation making role while the ultimate decision-making authority is retained by the provincial Minister whose discretion cannot be fettered (Chapter 5).

\textsuperscript{47} Conservancies came into force 2006 and were initially applicable only to the central and north coast of B.C. but have now expanded to other regions in the province. Conservancies are ostensibly co-managed with First Nations and are intended to protect biodiversity, Indigenous social, cultural, and ceremonial use, as well as recreational use. Some economic activities are allowed while commercial logging, mining, and hydroelectric projects (with the exception of run-of-the-river projects) are prohibited (BC Parks, n.d.). However, as ICE reports, conservancies are not always co-managed or co-governed in practice, and First Nations often encounter bureaucratic roadblocks when they develop conservancy management plans for their territories (ICE, 2018).

\textsuperscript{48} Ecosystem-based management is an adaptive management approach intended to facilitate the “co-existence of healthy, fully functioning ecosystems and human communities” and was committed to throughout the GBR (Coast Information Team, n.d.-b).
Despite some shortcomings, the GBR Agreement is often acknowledged for ending the “war in the woods,” a period of B.C. history’s that included a historic blockade in Clayoquot Sound, and an effective market-based campaign in the GBR (Thomas-Muller in Kittmer, 2013, pp. 99–100; M. Smith & Sterritt, 2010). In 1995, four major ENGOs banded together under the

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49 This official map produced by the Province of B.C. reflects a Eurocentric cartographic gaze by positioning the GBR in relation to Ireland (for reasons that are unclear) rather than including the territories of the First Nations that include the GBR.

50 In 1998 Clayoquot Sound, on the west coast of Vancouver Island was the site of the largest act of civil disobedience in Canadian history to date at that time with between 800-1000 arrests (Page, 2014; Shaw, 2004). Sustained efforts to protect some of the world’s last stands of temperate old-growth forests in the Fairy Creek watershed over the past year (2020-2021) on Vancouver Island reveal the lack of systemic change and forest management reform. At the time of writing, over 850 individuals (and counting) have been arrested while resisting old-growth logging and defying a court injunction in a different location on Vancouver Island.
“Rainforest Solutions Project\textsuperscript{51}” to slow down and, in some regions, halt logging of old-growth ecosystems. These ENGOs launched an impactful market-based campaign that pressured forestry companies to negotiate with ENGOs and the province to create new protected areas and change forestry practices.\textsuperscript{52} The Rainforest Solutions Project, a key ENGO player, sought to broker a solution that also addressed the pressing need for socio-economic development amongst coastal First Nations (Shaw, 2004). The Province of B.C. initiated the Central Coast land use planning process in 1996 and the North Coast land use planning process began in 2002. Both planning regions comprise the GBR and are included in the final 2016 agreement. As was customary at the outset of land use planning in B.C. in the late 1990s, First Nations in the region were invited to participate as stakeholders alongside interest groups including the forestry sector, mining and oil and gas interests, the commercial fishing industry, the tourism sector, and ENGOs pushing for protected areas and forestry reform (Low & Shaw, 2012; M. Smith & Sterritt, 2010). In 2000, to promote conflict resolution and advance bilateral negotiations, ENGOs and logging companies formed the “Joint Solutions Project.”\textsuperscript{53} Simultaneously, the Rainforest Solutions Project raised consumer awareness about the ethics of buying old-growth timber products, and threatened major purchasers of GBR wood with mass consumer boycotts (Page, 2014; Shaw, 2004). That same year forestry companies agreed to halt logging in 100 intact watersheds. In return, ENGOs informed consumers of this commitment and ceased to push for the cancellation of forestry contracts.

Another significant development unfolded in 2000 when 10 coastal First Nations joined together and stated that “if a conservation-based economy is to succeed, our active and meaningful participation is essential. We believe that the people who best know, use, and protect

\textsuperscript{51} The Rainforest Solutions Project was comprised of Greenpeace, Sierra Club of B.C., Rainforest Action Network, and Forest Ethics (now called Stand.earth). Once the Rainforest Solutions Project shifted its efforts from market campaigns to the implementation of agreement negotiations, the American-based Rainforest Action Network no longer participated in the coalition. As one representative of a national ENGO explained, another group, the Coastal Rainforest Coalition, was comprised of more than two dozen ENGOs and were involved until about 2005 or 2006. After this time ENGO involvement became more streamlined through the Rainforest Solutions Project (anom., 2019, interview).

\textsuperscript{52} Some environmentalists were also involved in direct action such as two forestry blockades in 1997, one of which was a joint action with the Nuxalk Nation, which halted logging operations for several weeks (Curran, 2017; ICE, 2018; Rainforest Solutions Project, 2008).

\textsuperscript{53} Meanwhile, logging and pulp and paper companies formed their own consortium, the Coast Forest Conservation Initiative.
biodiversity are the First Nations people who live in these magnificent forests and waters" (Turning Point Initiative, n.d., p. 2). In 2003, with support from the David Suzuki Foundation, these First Nations created the Turning Point Initiative (now called Coastal First Nations Great Bear Initiative). The Turning Point Initiative articulated that with inherent and constitutionally protected Aboriginal rights and the duty of Crown consultation, First Nations are not stakeholders vying to influence policy makers alongside actual stakeholders (i.e. industrial and environmental actors) in multi-sectoral planning forums. The Turning Point Initiative insisted on a government-to-government (G2G) shared decision-making model, which was formalized by a jointly announced agreement with the province in 2001. That the G2G table provided a separate forum for First Nations was significant because it appropriately engaged them as governments, but also because First Nations took issue with the exclusionary nature of the bilateral negotiations between ENGOs and industry (Curran, 2017). While the Joint Solutions Project advanced negotiations among ENGOs and forestry corporations, between 2003 and 2004 First Nations began participating in the process directly with the Province of B.C. as a decision maker at the G2G table. Thus the planning process evolved into a tiered structure whereby ENGOs and logging corporations presented joint recommendations to the G2G table drawing on available science. 

The GBR process continued over the next 12 years and included breakthroughs in conservation financing and reconciliation with First Nations, eventually culminating in the final agreement in 2016. The Province of B.C. and First Nations announced the Coast Land Use Decision which encompassed agreements reached in the Central and North Coasts in 2006. Meanwhile the establishment of a large conservation endowment fund, Coast Funds, grew to

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54 This move was consistent with a provincial policy called the New Relationship, which came into force in 2006 to advance relationships between the province and First Nations in B.C. (Integrated Land Management Bureau, 2006).

55 The Coast Information Team was the quasi-independent scientific body tasked with informing the planning process and supporting governance decisions. The Coast Information Team also purported to integrate local and Indigenous knowledge into the planning process (Coast Information Team, n.d.-a). See Clapp and Mortenson (2011) for a discussion about the politics of scientific knowledge production in the GBR.
This conservation financing tool is intended to support conservation-related jobs and businesses in Indigenous communities (Coast Funds, n.d.). First Nations and the Province of B.C. signed the first GBR agreement in 2009. In their announcement, the province declared the protection of 50% of old-growth forests under conservancies (later increased to 70%), with all planning participants agreeing to ecosystem-based management. Meanwhile, six coastal First Nations (and one additional First Nation) represented by Coastal First Nations (formerly Turning Point Initiative) and the Province of B.C. signed a Reconciliation Protocol in 2009 that included provisions for shared decision-making, economic opportunities for Indigenous communities (including Indigenous-operated forestry ventures), the establishment of carbon offsets operated by (now) Coastal First Nations Great Bear Initiative and associated revenue sharing. The Province of B.C. signed another reconciliation protocol agreement with Nanwakolas Council (representing five First Nations on the north coast of Vancouver Island) in 2011 in part to increase Indigenous participation in the forestry sector while protecting cultural and social values. Following the Joint Solutions Project’s (i.e. ENGO and forestry industry) recommendations, the Province of B.C., Coastal First Nations, and Nanwakolas Council finalized their G2G discussions. In 2016, the Province of B.C. ratified the final GBR Agreement and passed legislation to implement it (Great Bear Rainforest (Forest Management) Act, 2016; Great Bear Rainforest Order, 2016). Art Sterritt, the former Executive Director of Coastal First Nations, described Coastal First Nations’ role influencing new provincial legislation as an example of “monumental change” (McSheffrey, 2016).

The GBR Agreement is the result of massive efforts on the part of all those involved and seeks to implement a conservation vision that allows for regional economic development consistent with that vision. Given the complexity of the “entangled jurisdictions” that make up the GBR, the multitude of First Nations and stakeholders involved, and the “dizzying array” of agreements emerging through this process, the final agreement and implementing legislation are indeed major accomplishments (Curran, 2017, pp. 820, 849). However, the effectiveness of ecosystem-based management is questionable. While earlier decisions stipulated that logging

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56 The Nature Conservancy and First Nations raised $60 million in philanthropic funds to create Coast Funds. In 2007, the Province of B.C. and the Government of Canada each contributed $30 million raising the total of the fund to $120 million.
practices would comply with the Forest Stewardship Council’s certification for more sustainably harvested timber, this commitment was recalled by the time the GBR Agreement was finalized in 2016. Further, some forestry companies have found loopholes in the province’s deregulated forestry sector where there is little oversight to ensure companies are logging according to the principles of ecosystem-based management\textsuperscript{57} (Parfitt, 2019b). Along with these implementation challenges, the relationships forged between First Nations, ENGOs, the Province of B.C., and industry in the GBR reflect the evolution of collaborative governance in land use planning, conservation, and forest management in the province. In the following section I turn to the details of collaboration, with attention to the factors that shaped the outcomes in the GBR, and lessons learned by ENGOs in the process.

Table 3-1. Highlights of the 2016 Great Bear Rainforest Act

<table>
<thead>
<tr>
<th>Ecological</th>
<th>Economic</th>
<th>Governance</th>
</tr>
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<tbody>
<tr>
<td>• 70% of remaining old-growth forest protected in conservancies (new protected areas).</td>
<td>• 15% of the total forest can be logged (accounting for Indigenous values).</td>
<td>• Collaborative (G2G) decision making with First Nations and Province of B.C. (ongoing).</td>
</tr>
<tr>
<td>• 85% of the total forest protected.</td>
<td>• Maximum annual allowable cut is 2.5 million cubic metres (i.e. volume of timber that can be harvested annually).</td>
<td>• Province of B.C. signed agreements with Coastal First Nations, Nanwakolas Council and individual First Nations to enhance shared governance, consultation and accommodation, and to increase Indigenous participation in forestry while protecting cultural interests.</td>
</tr>
<tr>
<td>• 3.1 million hectares protected from industrial logging.</td>
<td>• Conservation economy to be fostered including Indigenous-owned carbon credits, conservation investments, and opportunities for Indigenous forestry.</td>
<td>• Co-management with First Nations in conservancies.</td>
</tr>
<tr>
<td>• Four marine plans completed through the Marine Plan Partnership.</td>
<td>• Ecosystem-based management applies everywhere.</td>
<td></td>
</tr>
<tr>
<td>• Ecosystem-based management applies everywhere.</td>
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Source: (Coastal First Nations, 2020; Curran, 2017; Great Bear Rainforest (Forest Management) Regulation, 2016; Province of B.C., 2020a, 2021b)

\textsuperscript{57} It appears companies have been high-grading old-growth trees and leaving up to one quarter of felled trees behind in the landscape (Parfitt, 2019a).
3.3.2 Engagement and collaboration

Through the GBR process, ENGOs matured and learned about the importance of due diligence and thoughtful engagement when collaborating with First Nations. Despite relatively effective collaboration among parties in a process marred with antagonism and conflict, relationships between ENGOs and First Nations were varied, and at times rocky. On the one hand, many individuals working for ENGOs had personal relationships with First Nations in the GBR and were invested in generating positive outcomes for communities (Moola, 2018, interview; Rumsey, 2018, interview). On the other hand, early ENGO strategies lacked awareness of systemic colonialism and power relations and exacerbated existing tensions. As one representative of a national ENGO reflects, at the outset of the planning initiative in the mid-late 1990s, ENGOs conducted outreach with First Nations in attempts to form alliances as they established their campaigns. However, ENGOs lacked sensitivity around the politics of aligning
with elected (Band Council) versus traditional (hereditary) leadership in some First Nations (see also Davis, 2009). This individual noted that ENGOs’ early “haphazard” outreach approach was …full of conflict. It was full of tensions. Because each of the Nations themselves are not monolithic. They have a diversity of political and economic opinions within the Nations. And in some cases, at that time the hereditary and the elected [leadership] would not be aligned on what to do with land use. (anon, 2019, interview)

They went on to note the importance of ENGOs learning that they can inadvertently increase divisiveness within Indigenous communities—even if this insight is not fully reflected in ENGO’s strategies today. In addition to the politics of collaboration, engaging with ENGOs requires capacity (i.e. time, personnel, etc.). Since capacity constraints resulting from colonialism affect many Indigenous Nations (ICE, 2018), ensuring Nations have the resources to provide leadership in collaborative processes is an equity issue.

Large-scale planning and multilateral environmental governance processes are capacity intensive for all participants; however, capacity is unevenly distributed as are political opportunities to influence the process and outcomes (Galbraith, 2014). While over two dozen First Nations have territories in the GBR region, key informants commented that the geographic and political scope was conducive to negotiations among various parties. Geographically, the 64,000 km² planning area, which includes approximately 100 watersheds, has relatively homogenous ecology. Although the planning process was somewhat decentralized, the Province of B.C. had planning infrastructure (i.e. a process, an agency, staff and funding) in place to oversee planning and support consultation with Indigenous governments. 58 Meanwhile, many of the ENGOs and philanthropic organizations, in addition to the province, had significant capacity to engage, operate and fund initiatives such as the endowment fund (Coast Funds), workshops with First Nations, the Turning Point Initiative, and the independent scientific body (Coast Information Team). Further, streamlining engagement through representative Indigenous and ENGO organizations and coalitions created efficiencies and alleviated capacity issues for both ENGOs and First Nations. In the early days of the GBR campaign, over 20 ENGOs were involved. By the mid 2000s, ENGOs became more streamlined and effective, with four key

58 While this institutional capacity was critical, further analysis could shed insights into how process efficiencies and equity considerations could have potentially accelerated the drawn-out planning process.
organizations coalescing under the Rainforest Solutions Project. ENGOs engaged with over two dozen regional First Nations through their umbrella organizations. However, not all First Nations in the region were represented by the Turning Point Initiative/Coastal First Nations and Nānwaḵolas Council. As such, some First Nations had less capacity to participate, and fewer opportunities to influence the GBR process (Gies, 2019; Henry et al., 2022). Despite these capacity issues, ENGOs and the provincial government appear to share the view that dialogue and consensus building with First Nations was effective and enabled the “historic agreement” in 2016\(^{59}\) (Province of B.C., 2021a).

Various motivations influenced ENGOs’ and First Nations’ decisions to collaborate as well as the strategic nature of their relationships. The majority of ENGO key informants emphasized the importance of working respectfully with First Nations and being transparent with their motivations. Over two decades of negotiations and relationship building in the GBR, many ENGOs developed a deeper appreciation for Indigenous governance, jurisdiction, and rights, resulting in what some key informants perceive as a healthy dynamic between ENGOs and First Nations. Merran Smith, Executive Director of Clean Energy Canada and former ENGO negotiator for the GBR, explains that despite “rocky moments working out exactly what it was we all wanted…we created a negotiating package that was in alignment with [First Nations]" (2019, interview). Arguably, it was also strategic for some First Nations to align with ENGOs as collectively they were able to amplify their individual influence to further common goals such as protecting ecological integrity (anon., 2019, interview; M. Smith, 2019, interview). For example, the pressure of ENGOs’ market campaigns created a political opening that some First Nations seized, asserting themselves as legitimate governments with decision-making authority in their territories.\(^{60}\) As one ENGO representative reflected, the Turning Point Initiative “was truly a turning point” as it enabled a coalition of coastal First Nations to “forward a joint agenda and

\(^{59}\) In contrast, a study published in 2010 that evaluated the planning process in the GBR to date identified challenges with collaborative planning such as inclusivity and equity issues. The authors concluded that despite the early GBR agreements being indicative of success, 55% of the 36 survey respondents involved in the land use planning tables believed the outcomes did not meet the interests of their group. Indigenous survey participants perceived the planning process to be less successful than non-Indigenous participants (Cullen et al., 2010).

\(^{60}\) This perspective does not necessarily reflect the position of Turning Point Initiative/Coastal First Nations or any of the First Nations involved in the GBR planning process but was rather a common perspective arising from the interviews.
engage the leverage of the ENGOs” (anon., 2019, interview). First Nations’ advocacy combined with the willingness of the provincial government and stakeholders to accept their governance assertion were critical to the reconfiguration of the planning process. The G2G framework re-circuited power relations and elevated Indigenous leadership in land use planning, conservation, and environmental governance.\(^{61}\)

The shift to a G2G process with First Nations was paramount to the final GBR Agreement and associated legislation and set important precedents. The G2G framework is a co-governance model that enabled First Nations in the GBR to veto stakeholder recommendations, a move consistent with Aboriginal case law (Clapp et al., 2016). Chuck Rumsey, President and CEO of Canadian ENGO Ecotrust Canada identifies the G2G framework as responsible for changing the tone of the planning process, creating a “consequential means of engagement with the province” for First Nations who no longer had to rely on other actors to represent them (2018, interview). As described by Pierre Iachetti, Former Conservation Director with ForestEthics Canada, “the strength of the solutions came into place in the G2G process” (2018, interview). Other influential factors leading to the G2G framework include historical environmental conflicts (e.g. the “war in the woods”) and political and economic instability arising from a lack of treaties in B.C. Jurisdictional conflicts over lands and waters that might otherwise be resolved by treaties have resulted in a stronger recognition of Indigenous rights and title in B.C. than in other provinces (Curran, 2017).\(^{62}\) ENGOs’ support for the G2G process reflects a growing understanding that First Nations have constitutionally protected rights and decision-making authority beyond the scope of stakeholders like themselves. While First Nations reinserted themselves into the planning process as governments, the province advanced early reconciliation policies like the New Relationship and signed new protocol agreements with First Nations. Without First Nations skillfully navigating the planning process and positioning

\(^{61}\) Subsequent provincial land use planning processes in B.C. have followed suit, proceeding with the G2G model. Despite these advances, Indigenous governance in the GBR, as elsewhere, remains subject to the province’s ultimate decision-making authority with respect to conservation and forest management. In the GBR, the intent was for all parties to agree with the direction provided to the Minister, which was the case; however, ultimate decision-making authority rested with the Minister.

themselves as decision-makers, many of the achievements in the GBR would not have materialized, particularly goals surrounding the development of a local conservation-based economy, and the establishment of a new protected area designation (conservancies) that enables greater use and management by First Nations than other provincial protected areas.

While academic, governmental, and ENGO assessments of the GBR are generally positive, important, but often lesser heard critiques abound and offer opportunities for reflection, particularly in light of the rise of Indigenous-led conservation and IPCAs. For example, although most ENGO key informants pointed to the transformative nature of the GBR planning process, noting for example that "everybody changed through the process, the discussions, the dialogue that we had" (M. Smith, 2019, interview), others question whether enduring social capital was built. Taking a more critical view of the GBR process, the instrumentalization of Indigenous governments by ENGOs may have reoccurred in the GBR, despite greater collaboration and the adoption of a G2G framework. Despite the fanfare about collaboration, former Senior Campaigner and Negotiator for Greenpeace Eduardo Sousa comments “there wasn’t a lot of room for deeper collaboration with Indigenous leadership of the individual communities in the GBR and we’re still living with the legacy of this” (2021, interview). The strategy in the GBR was first and foremost to get ENGOs and forestry companies to negotiate agreements that could then be presented to the G2G table; "unfortunately, the lesson was not ‘First Nations' meaningful participation is the key’" (Rumsey, 2018, interview). Instead, the land use planning "playbook" the province endorsed was “hammered out by and large by industry and ENGOs behind closed doors" (Rumsey, 2018, interview). Since the land use planning process was unfolding in a “time-bound pressure cooker” it continued to pit economic interests against old-growth forests and the actors involved were in many ways determined by the structure of the process itself (Rumsey, 2018, interview).

While including the GBR Agreement as an example in their final report on IPCAs, the Indigenous Circle of Experts (ICE) acknowledges the “less-than-ideal level of Indigenous government decision-making over their territories,” despite the Agreement being “exponentially better than the previous status quo” (2018, p. 49). While the symbolic and material gains of the G2G process are significant, the co-governance framework was situated within a state-led process established in Crown institutions and legal frameworks. First Nations successfully
adapted an existing process leveraging “strategic moments of opportunity that result in the recognition of [I]ndigenous rights” (Hibbard & Lane, 2004 in Galbraith, 2014, p. 457). In this sense, the GBR Agreement can be read as a “colonial adaptation towards reconciliation and conservation” (Curran, 2017, p. 813). Despite the challenges involved with adapting a colonial and bureaucratic Crown-led process to share authority and decision-making with First Nations, ENGOs and Crown agencies learned valuable lessons in the GBR that are relevant if these actors are to support Indigenous-led conservation and IPCAs.

3.3.3 Synopsis of key insights

**Engagement, Relationships, and G2G**

A key lesson ENGOs learned through the GBR planning process was that First Nations are governments with rights and responsibilities—not stakeholders—and ENGOs are influencers not decision makers. For Crown agencies, interacting with Indigenous Nations as influential and knowledgeable decision-makers rather than interest groups is an important ingredient in collaborative planning processes. ENGOs and Crown agencies are more likely to be effective at relationship building with Indigenous Nations when they seek out and respond to the preferred consultation and governance protocols of each Nation or their representative organizations. Relationship building is key, and ENGOs have to build a whole different approach to the work, which is really to come at it from a place of respect…You need to sit down, listen, build relationships, understand where Indigenous People are coming from and what their interests are and find if there is a place of alignment between your interests; and if there is, work together on it. (M. Smith, 2019, interview).

Doing so minimizes the risk of falling into historical patterns of ENGOs and Crown agencies ignoring, (mis)representing, or instrumentalizing Indigenous Peoples in land use decisions affecting their territories. ENGOs leveraged their influence in the GBR through market-based campaigns which indirectly supported the establishment of the G2G process by applying strategic pressure on forestry companies. One ENGO representative commented that a major lesson for ENGOs was the social justice element of conservation. Along with protecting
ecological integrity, human and Indigenous rights must be simultaneously upheld (anon., 2019, interview).

Other legacies of the GBR Agreement that helped prime the conservation sector to support Indigenous-led conservation included the strong role of Indigenous Guardians in the GBR, the development of a conservation-based economy, and the co-establishment and management of conservancies. Meanwhile, reconciliation agreements between the Province of B.C. and First Nations in the GBR are intended to enhance shared governance, consultation and accommodation, and to increase Indigenous participation in forestry while protecting cultural interests.

**Capacity Support**

Ongoing effects of systemic and institutionalized colonialism have resulted in the uneven distribution of capital, resources, and capacity. These effects in turn shape how power flows through and is mobilized by various actors in collaborative processes. Yet, Indigenous Nations possess governance, knowledge, and legal systems derived from their ties to their territories, which are critical for advancing decolonial and effective responses to the interrelated biodiversity and climate crises. If Indigenous Nations lack capacity to engage in processes intended to involve them, or if their roles deciding and implementing the outcomes are limited, then systemic inequalities are reproduced not overcome. Respecting Indigenous rights, authority, and governance, and providing capacity support are thus appropriate roles for ENGOs and Crown governments to adopt. In the spirit of decolonizing capacity support, it is incumbent on ENGOs and Crown governments to inquire with Indigenous Nations if support is needed, and if so, what kind. ENGOs are more likely to avoid reproducing paternalism or a saviour complex when deferring to the leadership of Indigenous Nations.

### 3.4 Canada’s Boreal Forest Agreement and Ontario’s Far North Act

#### 3.4.1 Planning overview

Like the GBR, Canada’s boreal region is of global ecological significance and has been the site of intense environmental and jurisdictional conflict with numerous actors clashing over more than a decade. Canada’s boreal region is considerably larger than the GBR in area and
includes the territories of hundreds of First Nations, Métis, and Inuit communities. Ontario’s boreal region alone spans roughly 452,000 km² (42% of the province’s landmass; as compared to the 64,000 km² covered by the GBR Agreement) and is home to approximately 24,000 people (90% Indigenous), and 31 (mostly remote) First Nations communities (Ministry of Natural Resources and Forestry, 2019; Wilkinson & Schulz, 2012). Canada’s vast and biodiverse boreal region—encompassing 5.5 million km² over 10 provinces and territories—contains some of the largest patches of old-growth forest, peatlands, lakes, and rivers on the planet (Wells et al., 2020). In addition to providing critical habitat for large predators, threatened caribou, one to three billion nesting birds, and migratory mammals and fish, it is also an important global carbon sink (Gauthier et al., 2015; Kurz et al., 2013; Wells et al., 2020). Yet, only 8-13% of the North American Boreal Forest biome is protected under recognized conservation areas and the ecoregion is threatened by industrial development (Wells et al., 2020). The main threats to the biodiversity and ecological integrity of the boreal forest are climate change and industrial development (especially logging and oil and gas development) which contributes to the region’s vulnerability (Nitoslawski et al., 2019; Wells et al., 2020). The following sections provide an overview of planning and conservation in Canada’s boreal region, with a focus on Ontario, Canada’s most populated province. The CBFA and Ontario’s Far North Planning Initiative are collectively addressed due to their interrelated nature (e.g. overlapping geographical area, and similar overarching goals of protecting 50% of the planning area), although they are separate processes. Further, they are both symptomatic of a failure to appropriately consult and develop G2G processes with Indigenous Nations. Simultaneously, a host of stakeholders attempted to determine the future of Canada’s boreal region through conservation and development agendas.

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63 According to current data from the Government of Canada, nine First Nations in Ontario’s Far North are under current long-term water advisories and about a dozen more only had long term water advisories lifted since 2015 (Indigenous Services Canada, 2021). That many First Nations in Ontario’s boreal region have been struggling with a lack of basic living conditions likely contributed to a lack of capacity to engage with boreal planning processes as attention and resources may have been diverted elsewhere.

64 As Vuntut Gwitchin Elder and former Director of Indigenous Collaboration at the Arctic Institute of Community-Based Research Norma Kassi shares, “Our Elders are saying that we have probably 20 years or less to get turned around and protect the lands, waters, and species we do have left in the boreal zone and around the world. It will have to take a global effort to make that change” (Kassi, 2019, p. 422).

65 For more detailed overviews and analyses see Burlando, 2012; Gardner et al., 2012; Kittmer, 2013; D. Riddell, 2014, 2015.
In 1999, the Province of Ontario, ENGOs, and forestry companies signed the Ontario Forest Accord, the culmination of a two-year provincial land-use planning process that influenced successive waves of planning initiatives that marginalized Indigenous Nations. Sometimes referred to as a “weekend deal,” the accord was one of a series of negotiated environmental agreements in Ontario lacking meaningful Indigenous participation, but involving significant ENGO influence (M. A. Smith, 2015; P. Smith et al., 2010, p. 2). The boreal initiative gained momentum in 2001 when the American philanthropic organization Pew Charitable Trusts bequeathed $60 million USD to fund the creation of the Canadian Boreal Initiative66 (Smith, 2015). In 2003, the national Boreal Leadership Council comprised of ENGOs, industry, and five First Nations’ councils representing 59 Indigenous communities across Canada signed the Boreal Forest Conservation Framework (Framework) with the goal of protecting at least half of Canada’s boreal forest through interconnected protected areas. “World-leading ecosystem-based resource management and state-of-the-art stewardship practices” would be permitted in the other half67 (Boreal Leadership Council, n.d., p. 3). The Framework purports to “acknowledge and respect the leadership role of Aboriginal people in achieving conservation goals on their traditional lands” (Boreal Leadership Council, n.d., p. 4). However, not all Indigenous governments in the boreal endorsed the Framework that paved the way for the massive planning, conservation, and development agendas that followed. None of the original First Nations signatories to the Framework were from Ontario. An additional four First Nations’ councils representing 23 Indigenous communities later endorsed the Framework (Smith et al., 2010). Crown agencies also did not ratify the Framework as they were not involved in the emerging negotiations among ENGOs, forestry companies and some First Nations’ councils despite the magnitude of the initiative under discussion.

66 The Canadian Boreal Initiative was established to promote conservation and sustainable development in the boreal. It is now defunct but its mandate is continued by the Boreal Songbird Initiative (also funded by Pew Charitable Trusts) in partnership with the Indigenous Leadership Initiative and various ENGOs. The Canadian Boreal Initiative was the Canadian facing organization in an international campaign that had deep ties to and funding from major American philanthropic contributions (Courtois, 2021, interview).

67 These conservation and sustainable development agendas were influenced by a report the World Resources Institute, a non-profit global research organization, published in 1997 which involved an analysis of global forest loss and related biodiversity and cultural impacts. The report galvanized ENGOs and influenced the federal government to plan for development and conservation in Canada’s Far North (Burlando, 2012; Smith, 2015).
Following the successful campaigns in the GBR, in 2004, several of the same prominent ENGOs (Greenpeace and ForestEthics) launched similar global market-based campaigns targeting forestry companies logging in Canada’s boreal, as well as companies using boreal pulp in their products. ENGO tactics included high-impact media and communication campaigns that targeted shareholders and influenced large divestments of boreal forest products. These campaigns altered logging practices and supply chains. The campaigns pressured the Forest Products Association of Canada (FPAC)\(^{68}\) into negotiations with ENGOs. In exchange for deferring logging in endangered caribou habitat, companies benefited from the green marketing advantage afforded by reputable certifications like the Forest Stewardship Council’s National Boreal Standard, which emerged (along with a few others) through the boreal planning initiative (Riddell, 2014; Shaw, 2004).

As conflict over forest management in Ontario’s boreal region ramped up, the Province of Ontario and ENGOs mobilized their efforts, again in the absence of widespread Indigenous input. In 2009, the Province of Ontario established the Far North Planning Initiative, which institutionalized a 50/50 conservation-development split. The initiative has the stated goals of working with First Nations and using a science-based approach to create community-based land use plans in the Far North and to develop the Far North Land Use Strategy (Ministry of Natural Resources and Forestry, 2012). Yet, the Far North Planning Initiative and associated legislation were undertaken in the absence of comprehensive Indigenous consent let alone shared governance.\(^{69}\) While Ontario’s planning regime was being unilaterally established by the provincial government, negotiations among ENGOs and forestry companies progressed, driven by a crisis mentality. ENGOs were greatly concerned about the fate of woodland caribou, a species on the verge of extinction, while forestry companies continued to log with little intervention from Crown governments. Forestry companies, battered by ENGO marketing campaigns and the 2008 recession, wanted to avoid further lay-offs and political and economic instability affecting their profitability. Driven by this collective sense of urgency, ENGOs

\(^{68}\) FPAC is a Canadian trade association representing the interests of producers of wood, pulp, and paper nationally and internationally.

\(^{69}\) The Canadian Boreal Initiative advocated for the Province of Ontario to secure First Nations consent over the legislation, “but in the end, First Nations were restricted to local land-use planning subject to the protection goals for the Act and the approval of the Minister” (Smith, 2015, p. 32).
engaged directly with forestry companies with the intention of resolving their conflicts before engaging with Indigenous Nations and Crown governments (Iachetti, 2018, interview; Moola, 2018, interview).

In May 2010, the CBFA, often referred to as a historic truce, was signed by nine ENGOs and 21 forestry companies for a three-year renewable term. Although the CBFA was intended to bring peace to Canada’s northern woods, the agreement itself was marred with conflict. Covering 72 million hectares of land in the Canadian boreal overlayed with forestry tenures, the stated objectives of the CBFA were to suspend logging in endangered caribou habitat in exchange for ENGOs’ suspension of boycotts against forestry companies logging in the boreal, in addition to other commitments (Figure 3-3, Table 3-2, Appendix D). This self-proclaimed “historic agreement signifying a new era of joint leadership in the boreal forest” brazenly lacked joint leadership or signatories from Indigenous governments despite purporting to recognize the rights and uphold the involvement of Indigenous Peoples (CBFA, 2010). The six goals of the CBFA were to: improve sustainable forest management, increase protected areas, protect vulnerable species like woodland caribou, address climate change via forest conservation, increase the prosperity of the forestry sector and forestry-dependent communities, and promote the environmental performance of forest sector signatories (Assembly of First Nations, 2010; FPAC, 2021). While many celebrated the CBFA for being a pathbreaking multilateral agreement between warring parties, many others have critiqued it, for example calling the “protracted and multi-fractured debate” a failure (Burlando et al., 2011, p. 1; Smith, 2015) that was negotiated and signed “behind closed doors by environmental organizations and FPAC” (Courtois, 2021, interview). Some of the dissenting voices included a few of the ENGO signatories to the CBFA, two of whom subsequently withdrew from the agreement (Greenpeace and Canopy)\(^\text{70}\) while others offered apologies to Indigenous Peoples for initially excluding them (i.e. the David Suzuki Foundation and the Canadian Boreal Initiative; M. A. Smith, 2015).

\(^{70}\) Greenpeace withdrew in 2012 over allegations that a forestry company who was also a signatory to the CBFA was logging in off-limit places and violating the agreement. Resolute Forest Products denied the allegations and sued Greenpeace and STAND.earth (formerly ForestEthics) for defamation. In 2019, a federal judge dismissed most of Resolute’s claims and dismissed in full both ENGOs (Fiset, 2020). Canopy withdrew in 2013 citing a lack of progress on conservation commitments in Canada’s boreal.
In August 2010, the same year the CBFA was signed, the Nishnawbe Aski Nation (NAN) of Ontario, representing 49 First Nations, began campaigning for the Province of Ontario to repeal the Far North Act, which it was on the verge of passing (M. A. Smith, 2015). In a statement, Grand Chief Stan Beardy declared, “[the CBFA] was made without our knowledge and treats NAN as a stakeholder – not a government” (NAN, 2010). Though a separate process than that of the CBFA, the Far North Act legislates the principal objective of the CBFA to protect 50% of northern lands by enabling land use planning on “public lands” (i.e. all land not within reservations) in the northern third of the province through the Far North Planning
Initiative\textsuperscript{71} (Far North Act, 2010; Ministry of Natural Resources and Forestry, 2012b). Despite NAN’s serious allegations, the Far North Act received royal assent in October 2010 (Table 3-2, Appendix D). The act accentuated conflict in Ontario’s boreal region by enabling a process that ensured Indigenous consent never materialized\textsuperscript{72} (Bowie, 2020). In December 2010, the Assembly of First Nations (AFN; 2010, p. 2) passed a resolution condemning “the disrespectful manner in which the Canadian Boreal Forest Agreement was negotiated by Environmental Non-Governmental Organizations (ENGOs) and Forest Products Association of Canada (FPAC).” AFN demanded the CBFA’s termination declaring it to “be of no force and effect within the traditional territory or resource management area of any First Nation” (2010, p. 2).

Initially celebrated by some large conservation organizations as an “ecological victory,” others contend the Far North Act was “a development scheme designed to manage the increasingly troublesome claims to Indigenous governance authority across the region” (Scott, 2019; Scott & Cutfeet, 2019). Valérie Courtois, Director of the Indigenous Leadership Initiative, describes the Far North Act as protecting Crown jurisdiction even though the legislation was initially supposed to include recognition of Indigenous jurisdiction (2021, interview). Indeed, the Far North Planning Initiative is a prescriptive process that attempts to neutralize claims to land desired for extractive development while setting aside areas for conservation.\textsuperscript{73} Participating First Nations must consent to the terms of reference in order to access funding for community-based plans: choose which portions to designate for conservation and which areas are open for

\textsuperscript{71} The Province of Quebec also proclaimed the same goal that year. Prior to that, in 2007, 1,500 scientists coined an open letter calling for the protection of at least half of the boreal forest as per the Boreal Forest Conservation Framework (Boreal Songbird Initiative et al., 2007).

\textsuperscript{72} NAN asserted that Bill 191, which predated the Far North Act, ignored two years of dialogue NAN had with the province at the “Northern Tables” which was intended to create a framework for new land use planning legislation. In the consultation process for the development of the legislation, the province interacted with First Nations and NAN as stakeholders. Problematic as this was, the province’s consultation process further failed by ultimately providing few consultation opportunities that were poorly timed and had accessibility issues. As such, First Nations had only a few opportunities to comment on the proposed legislation as potentially affected interest groups and were far from co-designers of the legislation (Bowie, 2020).

\textsuperscript{73} See Bernauer & Roth (2021) for an illuminating discussion of how the establishment of protected areas can be concessions to Indigenous Peoples that secure consent for extractive industries.
business, primarily forestry and mining in Ontario’s mineral rich Ring of Fire region\textsuperscript{74} (Ministry of Natural Resources and Forestry, 2012; Scott, 2019). The planning initiative mandates that community-based land use plans subject to the Far North Act must be initiated by First Nations following which a “joint planning team” comprised of First Nations and provincial government representatives is created and, among other things, must identify at least one protected area. This requirement relates to one of the objectives of the Far North Act, which is to designate a total of at least 225,000 km\textsuperscript{2} of interconnected protected areas in the boreal region (Far North Act, 2010, n.d.). In 2011, the AFN stated, “The Act is deemed to violate the treaties and disrespects First Nations’ jurisdiction as it imposes a massive interconnected protected area over First Nation lands without any compensation” (2011, p. 14). Opposition from Indigenous organizations did not end there.

In February 2011, NAN published an open letter to CBFA signatories calling “for the immediate termination of the CBFA” accusing the agreement for privileging ENGO motivations over Indigenous governance and rights (NAN, 2011, p. 1). NAN’s scathing critique made it clear their member First Nations were “adamantly opposed to the CBFA, as it violated their Aboriginal, Treaty and Inherent rights, as well as their long term social and economic interests, and land resource stewardship rights bequeathed to them by the Creator” (NAN, 2011, p. 1). In addition to being a contravention to Treaties 5 and 9, foundational agreements intended to ensure equity in resource and territorial sharing, NAN took “major exception to the CBFA being negotiated in secret”, without their involvement, with major implications for their territories. In NAN’s view, the CBFA’s effort “to regulate the forests and expropriate massive protected areas without the free, prior and informed consent of First Nations” undermines aspects of the CBFA that purport to respect Treaty and Aboriginal rights (NAN, 2011, p. 1). NAN declared the CBFA a “bold and radical attempt by private interests” to influence Crown governments in “critical policy areas such as resource development, environmental protection, species protection, and First Nations rights” (Nishnawbe Aski Nation, 2011, p. 2). Further, NAN condemned ENGOs for their complicity and worried that “[First Nations] have become special targets of the larger

\textsuperscript{74}The Ring of Fire refers to an area in the James Bay lowlands identified with high potential for mining but that has very little infrastructure in place (i.e. remote area with limited access to transportation corridors and electricity).
boreal forest movement of conservation organizations” (2011, p. 2). The Boreal Forest Agreement Secretariat responded the following month belatedly explaining that CBFA signatories believed that, as stakeholders, they ought to resolve their conflicts first and bring forward proposals to Indigenous and Crown governments for discussions, the very approach that prompted acrimony, accusations, and apologies.

Despite the shaky foundations of the Far North Planning Initiative, nearly half of the First Nations in Ontario’s Far North have engaged in planning since its establishment in 2008; however, a much smaller subset (~16%) have completed plans, and the Far North Act seems poised to evolve. Only five First Nations completed land use plans or strategies between 2006 and 2015 and another nine completed terms of reference between 2013 and 2018, with no apparent progress between 2019-2021 (Ministry of Natural Resources and Forestry, 2020a). This suggests that despite the critiques leveled against it, some Nations found it worthwhile to engage in the planning process given it may have been seen as the only way to get the province and industry to leave parts of their territories alone as development ramped up in the north (Bowie, 2020). Simultaneously, that so few plans have been completed suggests most of the First Nations in Ontario’s Far North do not see the process as worthwhile or may fundamentally disagree with the terms. The ability of the Far North Planning Initiative to enable First Nations to protect their territories is now also in question. In 2018, the Ministry of Natural Resources and Forestry commenced a review of the Far North Act “with a view to reducing red tape and restrictions on important economic development projects in the Far North including the Ring of Fire, all-season roads and electrical transmission projects for communities” (Ministry of Natural Resources and Forestry, 2020b). In 2020, the Ministry withdrew the proposal to repeal the act citing “strong reactions” (Ministry of Natural Resources and Forestry, 2020b).

Following their unsuccessful attempt to repeal the Far North Act, in late 2020 the Ministry of Natural Resources introduced amendments to the act that confirm the legislation is fundamentally a development framework for Ontario’s boreal region, including the Ring of Fire. To this end, the designation of protected areas is intended to promote economic development elsewhere in the region. The proposed amendments purport to “refocus the Act” by removing or altering “provisions that are perceived as hindering economic development” while augmenting provisions to facilitate collaboration among First Nations in the Far North and the Province of
Ontario (Ministry of Natural Resources and Forestry, 2020c). One of the proposed amendments suggests replacing the reference to protecting 225,000 km\(^2\) with a less defined objective to protect areas of ecological and cultural value. While the language of G2G decision making is notably absent from the proposed amendments, the ministry recommended the establishment of a “joint body” to facilitate First Nations’ participation; yet, the language surrounding Indigenous participation is weak.\(^{75}\) By proposing to remove restrictions on development where community-based plans do not exist (i.e. the majority of Ontario’s Far North) the amendments intend to more easily “support economic growth” (Ministry of Natural Resources and Forestry, 2020c). Despite good intentions, ENGOs are complicit in the Far North Act in Ontario which unfolded in a parallel process to the CBFA, the agreement ENGOs helped to broker. Building on this overview, I now examine more closely the nature of collaboration and key insights learned by the conservation sector.

Table 3-2. Highlights of the Canadian Boreal Forest Agreement and Ontario’s Far North Act

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<tr>
<td>Geographic Scope</td>
<td>• Includes 720,000 km(^2) of Canada’s boreal; home to hundreds of Indigenous communities and about 10% of Canada’s population.</td>
<td>• Covers 42% of Ontario’s land mass; roughly the northern third, or about 452,000 km(^2).</td>
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<tr>
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<td>• Home to 31 First Nations communities, plus 3 additional municipalities/communities (population ~24,000).</td>
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<tr>
<td>Negotiations and Process</td>
<td>• Signed in 2010 by nine ENGOs and 21 forestry companies.</td>
<td>• Implemented with little Indigenous engagement by the Province of Ontario.</td>
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<td></td>
<td>• Indigenous and Crown governments not signatories to the Agreement and largely excluded from the negotiation process.</td>
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<td>• Two ENGOs withdrew (Greenpeace in 2012 and Canopy in 2013).</td>
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\(^{75}\) For example, a suggested new provision states that “First Nations may contribute perspectives on sustainable development for the purposes of land use planning” (Ministry of Natural Resources and Forestry, 2020c).
<table>
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<tr>
<th>Ecological</th>
<th>Ontario’s <em>Far North Act, 2010</em></th>
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<tr>
<td>- Goals: address climate change, pursue sustainable forest management, increase protected areas, and protect vulnerable species like woodland caribou.</td>
<td>- Objectives for land use planning: protect ecosystems and areas of cultural value, maintain biological diversity and ecological functions and processes, store and sequester carbon.</td>
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<td>- Suspend logging in endangered caribou habitat in exchange for ENGOs’ suspension of boycotts against forestry companies logging in the boreal.</td>
<td>- Set aside 50% land base for conservation and pursue resource extraction in the other 50%.</td>
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<th>Consultation</th>
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<td>- Consultation with Indigenous Nations piecemeal and largely led by the private sector (no provincial oversight in Ontario).</td>
<td>- Indigenous Nations treated as stakeholders with limited opportunities to provide input into the legislation.</td>
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<tr>
<td>- NAN (representing 49 First Nations in Ontario) demanded CBFA be repealed.</td>
<td>- AFN opposed the Act citing the violation of treaties, the undermining First Nations’ jurisdiction, and for imposing protected areas without compensation to First Nations.</td>
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<tr>
<td>- AFN demanded its termination and declared it has no effect over any First Nation’s traditional territory.</td>
<td>- NAN opposed the Act and the consultation process.</td>
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<th>Economic</th>
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<td>- Goal: increase the profitability of the forestry sector and the prosperity of forestry-dependent communities.</td>
<td>- Goal: support economic objectives for land use planning Ontario.</td>
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<tr>
<td>- Goal: promote the environmental performance of forest sector signatories.</td>
<td>- Goal: identify areas that are open for development and identify permitted land uses.</td>
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<tr>
<td>- Received massive investments from American philanthropic foundations including $60 million from Pew Charitable Trust.</td>
<td>- Goal: sustainable economic development to support First Nations.</td>
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<th>Current Status</th>
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<td>- Effectively defunct.</td>
<td>- Between 2020 and 2021, the Province of Ontario attempted to amend the Act to explicitly facilitate resource extraction and economic development (met with opposition).</td>
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<td></td>
<td>- Act currently stands.</td>
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<td>- 5 plans completed between 2006-2015.</td>
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3.4.2 Engagement and collaboration

Whereas ENGOs engaged in outreach to Indigenous Nations and supported G2G negotiations in the GBR, many of the same ENGOs sidestepped Indigenous engagement prior to launching the CBFA, which was part of a flawed strategy that ultimately contributed to the CBFA’s dissolution. ENGOs and forestry companies believed it was necessary to end ongoing “battling in the war in the woods between NGOs and companies” before bringing Indigenous and Crown governments into the conversation (Young, 2019, interview). ENGOs rationalized this approach, thinking they would get the “two biggest adversaries, industry and ENGOs, to come together and solve their issues before engaging with First Nations meaningfully, but that totally backfired” (Iachetti, 2018, interview). Through their bilateral negotiations, ENGOs’ pressured forestry companies to defer logging operations in future protected areas in exchange for ENGOs ceasing their market-based campaigns. As Dr. Faisal Moola, Associate Professor at University of Guelph and former Director General, Ontario and Northern Department with the David Suzuki Foundation explains, these unlikely allies intended to then go to Indigenous Nations for their approval. Following anticipated widespread agreement these divergent actors would then collectively approach Crown governments to seek regulatory implementation (Moola, 2018, interview). The bilateral strategy to early CBFA negotiations as a means of creating interim protection measures goes against best practice consultation principles of engaging early and often with Indigenous Nations (B. Gray, 2016; Indigenous Corporate Training Inc., 2022)—as governments not stakeholders (Province of B.C., 2021e). Critics of the process accuse ENGOs of pursuing quick and easy wins through “backroom agreements” noting that consulting with First Nations is complex and takes time (M.A. Smith, 2018, interview). Although many of the same ENGOs involved in the CBFA were simultaneously supporting a G2G planning framework in the GBR, ENGOs at the time were “incredibly ill-informed about…UNDRIP…and the history of colonized conservation” (Moola, 2018, interview).

76 The process was riddled with conflict. As one ENGO key informant describes, the CBFA process entailed negotiating tenure by tenure which was so tedious that some groups began having sideline discussions outside the planning table. The joint table failed at effectively convening groups and the focus became dealing with conflict on a micro scale. By contrast, in the GBR negotiating parties worked over large areas (rather than tenure by tenure), which proved to be more efficient (anonym. 2019, interview). The process leading up to the CBFA was so challenging that the attrition rate was high and even ENGOs struggled to align their visions (e.g. incremental versus radical change) (Rumsey, 2018, interview).
Critical flaws with ENGOs’ engagement strategy were exacerbated by a collective failure among CBFA signatories (i.e. ENGOs and forestry companies) and Crown governments to communicate that the major agreement was more of a proposal than a fully-fledged policy or legislated change driven by Crown governments. Alan Young, Director of Materials Efficiency Research Group, explains that in hindsight most signatories recognized “the sequencing should have been different” (2019, interview). The strong pushback from NAN and some First Nations in B.C. regarding the CBFA took many by surprise as there was a general understanding that the Canadian Boreal Initiative, the advisory and funding body of the CBFA, was handling engagement. According to Young, who served in a variety of advisory roles for CBI for over a decade, many in the organization strongly advocated for Indigenous engagement and requested additional time to do so prior to signatories finalizing the CBFA. However, this never happened and “the announcement came out about this world leading agreement and people…had to pay the predictable price” (2019, interview). As Courtois remarks, jurisdictional tensions flared up when “environmental groups and foresters [said], ‘this is what’s going to happen with your land’” continuing that the CBFA had “good intentions, a decent approach under the conditions, but terrible communications”77 (2021, interview). Amid much fanfare, signatories presented the CBFA as a done deal with hectares attached to new conservation targets even though “it was nowhere near done, there was nothing done” (Courtois, 2021, interview). In the absence of a diplomatic initiative, “to then take that ‘truce’ out to governments and people whose land you're talking about was a deeply compromised approach that came at the real cost” of further eroding the trust of Indigenous Nations who have experienced “generations of being betrayed” (Young, 2019, interview).

Alongside issues with the CBFA engagement strategy, financial, organizational, and institutional capacity issues further constrained the planning process and outcomes. The CBFA strategy was steeped in naive and hopeful thinking that it would be possible for ENGOs to eventually engage with hundreds of Indigenous Nations across the boreal over major proposed changes, including dozens in Ontario, with little to no government oversight (Iachetti, 2018,

77 Courtois acknowledges the value of the CBFA’s attempt to protect critical caribou habitat and change forestry practices Courtois noted that the value of the CBFA was in creating “a space to have a caribou focused conversation that isn't possible under kind of the normal forest management planning process, with a few notable exceptions” (2021, interview).
The capacity required to undertake appropriate consultation was “well beyond the scope of any NGO’s funding envelope at that time” (Rumsey, 2018, interview). Further, ENGOs and industry understand consultation as the responsibility of the Crown; therefore, they do not take personal responsibility for it (M.A. Smith, 2018, interview). While ENGOs have an ethical duty to uphold the principles of FPIC and to continually strive towards a social license for their campaigns, there are no legal or legislative clauses requiring them to consult with or ensure the consent of Indigenous Peoples in Canada. Some Crown consultation occurred with Indigenous Nations; however, this tended to occur regionally and to varying extents across the provinces (Courtois, 2021, interview; Moola, 2018, interview). For example, in Ontario “[ENGOs] had a very limited playing field” because there was no established provincial land use planning process at the time the CBFA was being negotiated and forestry plans were already established (Iachetti, 2018, interview). In Ontario, unlike in the GBR, there was no coordinating government agency fulfilling the Crown’s fiduciary duty to consult with Indigenous Peoples over major land use decisions because the CBFA initiative was led by private interests. The Province of Ontario, and other provinces, were well aware however that the near decade long CBFA planning process was underway.

Not only did the CBFA process undermine Indigenous governance, but it also failed to deliver on conservation and forestry management outcomes. Key informants involved with the CBFA explained that some signatories never had the intention of implementing the CBFA, or misinterpreted the agreement, realizing later that their expectations of the agreement were inappropriate. Some key informants discussed how many CBFA signatories from the forestry sector wanted benefits without doing the work, or never had the intent to implement the agreement and negotiated in bad faith. To some critics, the CBFA was an exercise in greenwashing whereby forestry companies marketed the agreement to their advantage without ever consulting with Indigenous Nations or making significant changes to their operations. Although there were unanticipated breakthroughs prior to the CBFA announcement, some of the companies “figured out a way to game the system and allow themselves to be seen to be part of the agreement, and then subvert the agreement” (Young, 2019, interview). Rumsey remarks that he and his colleagues within the CBFA made the mistake of believing that a solution rooted in a Western approach to conservation and development would work in the first place, a “misstep that
would ultimately undermine the entire process” (2018, interview). Despite these process flaws the CBFA did advance some measures benefiting caribou, while in other places nothing of the sort worked out\(^{78}\) (Courtois, 2021, interview).

The CBFA process illuminates what can happen when ENGOs and forestry companies influence Crown governments through a major planning process that lacks government oversight and Indigenous involvement or consent. While ENGOs miscalculated their strategy around engaging Indigenous Nations in the process leading up to the CBFA, the Province of Ontario was notably absent until they swooped in to legislate the Far North Act in 2010, following the signing of the CBFA. That the province did not establish the legislation in collaboration with Indigenous Nations added insult to injury as Indigenous dissent had already been clearly registered about the CBFA which had similar overarching goals (i.e. 50/50 conservation/development split). As Dr. M.A. (Peggy) Smith, Professor Emerita at Lakehead University\(^{79}\) comments, “if you agree with self-determination then you have to be open to jointly establishing a process that meets everyone’s goals” (2018, interview). The Province of Ontario missed an opportunity to establish an acceptable planning process and a collaborative governance framework with Indigenous Nations in the Far North. Yet, precedents for collaborative planning processes and a G2G framework had already been established in the GBR by the time the province introduced the Far North Act. This absence of the state (provincial, territorial, and federal Crown agencies) in the CBFA is symptomatic of the increasing environmental deregulation\(^{80}\) and neoliberalization of environmental governance and conservation in Canada. The CBFA exemplifies how mainstream planning processes promote market-oriented strategies of environmental governance (Jojola, 2013; Porter & Barry, 2016). The resulting political void that enables private interest groups like ENGOs and forestry companies—who are not accountable to the public or legally responsible for consultation—to undertake ambitious planning initiatives without the participation of

\(^{78}\) For example, there were a few examples where forestry was completely suspended in some areas where caribou protection was targeted and other already impacted areas where forestry was concentrated (Courtois, 2021, interview).

\(^{79}\) Dr. Smith’s article (M.A. Smith, 2015) on “the impacts of the conservation vs development paradigm on First Nations” in the CBFA and Ontario’s’ Far North was instrumental to my understandings of these processes (p. 23).

\(^{80}\) See Clogg et al., 2016 for a discussion on the deregulation of environmental governance in B.C. and Canada.
democratically elected governments (Crown and Indigenous). What these planning processes have illuminated is the need for a reconceptualized view of environmental governance that advances strong co-governance or Indigenous governance models (Clogg, 2007). Young remarks that the problem in the boreal was mischaracterized:

Environmental solutions are fundamentally governance problems. If you ignore the fact of governance from the outset you will fail. And the CBFA did exactly that and spent an extraordinary amount of time trying to retrofit and fix the fact that they were solving for the wrong political problem. (2019, interview)

By contrast, the GBR was an example of bold leadership where Indigenous Nations were supported to lead (Young, 2019, interview). A lesser talked about aspect of the CBFA is the ways in which Indigenous Nations are advancing their leadership in the boreal.

While the CBFA dissolved, in Ontario its legacy continues through the Far North Planning Initiative. Meanwhile, in a convoluted turn of events, a national Indigenous organization is advancing a different vision for Canada’s boreal. Although the CBFA is null, its precursor, the 2003 Boreal Forest Conservation Framework (Framework), lives on through The International Boreal Conservation Campaign (IBCC). The IBCC pre-existed the Canadian Boreal Initiative and has been campaigning to protect Canada’s boreal region for over two decades. The Framework—despite its lack of comprehensive engagement with Indigenous Nations during its conception—envisions important roles for Indigenous Peoples in the boreal. Following about 20 years of investments and efforts into the campaign, the legacy of the IBCC is the Indigenous Leadership Initiative, which replaced the Canadian Boreal Initiative in 2013 (ILI; Courtois, 2021, interview). As Valérie Courtois, the Director of the ILI, explains, when the Canadian Boreal Initiative’s activities shifted towards supporting Indigenous leadership “…it made it less relevant to the Canadian landscape. So it just made sense to close it down and re-emerge as the [Indigenous Leadership Initiative]” (2021, interview). Although still in the transition period, ILI is at the forefront of reconfiguring an international environmental campaign to one that has as Indigenous approach. As a “nationhood organization” ILI’s mandate extends beyond the boreal to the entire country and is based on three pillars of Indigenous land use/land relations planning, Indigenous-led conservation, and supporting a growing nation-wide network of Indigenous Guardians (Courtois, 2021, interview). As Courtois explains, though the IBCC is a “classic
environmental campaign” primarily funded by philanthropy, “ILI is about social justice on top of environmental interest.” Indigenous-led planning and conservation in Canada are poised to circumvent many of the issues identified with Crown and ENGO-led planning and conservation initiatives with organizations like ILI supporting the transition.

3.4.3 Synopsis of key insights

**Engagement and Communication**

Similar to the GBR, the most profound takeaway for ENGOs from the CBFA is the importance of conducting early and meaningful Indigenous engagement and deferring to Indigenous governance; however, whereas these insights were reinforced by the accomplishments in the GBR they were reinforced by failures in the CBFA. As Iachetti reflects, “we all learned a hard lesson about meaningful engagement…and where ENGOs fit into that whole picture. We should be supporting G2G negotiations” (2018, interview). Instead, driven by protracted conflicts over forest management and an acute sense of urgency over the fate of the boreal ecosystem and caribou, ENGOs believed it imperative that they work out their differences with the forestry sector before engaging with Indigenous Nations. Because Crown governments, particularly in Ontario, were not involved in the bilateral negotiations leading up to the CBFA, the Crown’s duty to consult was not triggered. Making matters worse, CBFA signatories communicated the 2010 agreement as a major accomplishment and a done deal, when in fact it communicated a vision, albeit an exclusionary one. Thus, ENGO signatories were complicit in determining a major conservation and development scheme for the boreal, a region primarily inhabited by Indigenous Peoples, without widespread Indigenous consent. While some organizations offered apologies to Indigenous Nations for their engagement blunders, overall, the conservation sector—at the organizational or sector level—seems relatively silent on the insights they took away from this process in terms of public discourse. Yet, ENGO key informants involved with the CBFA were aware of the mistakes ENGOs made and expressed humility and insight in their reflections on the process. This raises questions about the extent to which individual insights inform systemic change at the organizational level. While the CBFA lacked

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81 This approach has attracted a diversity of funding sources though ILI is working towards financial independence and indigenizing the processes it is involved in (Courtois, 2021, interview).
government involvement, in Ontario the province introduced the Far North Act and an associated planning initiative with coercive elements, again without significant Indigenous involvement.

**Scope and Capacity**

The CBFA was an extremely ambitious planning exercise given the enormous size and heterogeneity of Canada’s boreal region, and because it is home to hundreds of First Nations. Although, in theory, ENGOs intended to engage with First Nations after reaching agreements with the forestry sector, it is unclear how they would have been capable of doing so given the scale of consultation that would have been required. Meaningful engagement and relationship building with Indigenous Nations takes time and significant resources. Meanwhile, Crown governments, for the most part, and Ontario in particular, did a poor job of consulting with Indigenous Nations, deferring instead to private interests to come to a truce over the future of conservation and development in the region, which led to the CBFA. For most of the time the CBFA was unfolding, the province of Ontario lacked the institutional capacity and mandate that the Province of B.C. had to undertake land use planning processes. Ironically, when the Province of Ontario did invest in and institutionalize planning through the Far North Planning Initiative it did not do so in collaboration with First Nations. Collectively, these failures reflect both systemic issues as well as ideological and political interests.

In summary, that the CBFA and Far North planning processes did an abysmal job of engaging Indigenous Nations suggests that ENGOs and Crown agencies did not apply insights from the GBR, to the boreal and Ontario’s Far North. This is in some ways surprising since many of the same ENGOs were involved in both the CBFA and GBR, the processes overlapped temporally, and many external influences were simultaneously raising awareness of Indigenous rights and bringing Indigenous leadership and movements to the fore (Appendix D). Further, ENGOs commonly attribute the success of the GBR to the G2G process. This disconnect raises questions about the scalability and transferability of localized processes that have transformative aspects. The opportunity remains for the conservation sector to reflect on and mobilize insights from past land use and conservation planning processes in order to support and not impede Indigenous-led conservation and IPCAs. I now turn to a discussion on the limitations of planning as a way of making sense of the systemic issues in planning that influence processes such as the ones discussed.
3.5 Limitations of Planning

Since land use planning is intimately linked to conservation in Canada, with the former shaping possibilities for the latter, it is worth attending to critiques of planning. This is critical if the conservation sector is to learn from previous processes and support—rather than impede—Indigenous-led conservation and IPCAs. Below, I outline some of the more compelling critiques of planning with examples from the planning processes discussed so far.

3.5.1 Eurocentric ideologies pervade planning

Land use planning is anchored in the Western planning tradition, which Matunga (2013, p. 4) describes as “an imperial scholarly discipline and colonial practice.” Planning practice in general has promoted universalizing Anglo-European ideals and enacted structural violence that have contributed to settler-colonial territorialization (Lane, 2006; Porter et al., 2017; Reo et al., 2017). Meanwhile, Indigenous knowledge systems have been subordinated to European developmental ideals, technocratic approaches, positivist science and a rationalist planning paradigm (Lane, 2006). Despite the fact that “Indigenous planning has always existed” (Matunga, 2013, p. 5) little has been written about Indigenous approaches to planning; meanwhile, “outsider” planners have imposed their own value systems on communities involved in or subject to planning (Howitt & Suchet-Pearson, 2006; Jojola, 2013). Contemporary planning efforts in Canada that include Indigenous Peoples impose Western institutional frameworks that structure the types of opportunities and political engagements possible through them (Booth & Muir, 2011; Galbraith, 2014; Porter & Barry, 2016; Takeda & Røpke, 2010). In all three planning processes examined, Crown and stakeholder agendas (e.g. protecting endangered ecosystems, promoting development, reducing conflict, and creating conditions of certainty) were the starting place rather than Indigenous priorities for their territories. Indigenous Nations in these planning processes tended to use a rights-based approach to advocate for their involvement because Aboriginal rights are constitutionally protected (and upheld in some treaties relevant to these contexts). The focus on Indigenous rights was likely strategic given that the responsibilities Indigenous Peoples have to their territories that are upheld by Indigenous laws and governance, are not similarly protected or recognized. Thus, Indigenous participants to
planning processes must strategically intervene with established processes to assert alternative visions and goals.

In mainstream planning and conservation, Indigenous worldviews and knowledge systems are treated as contributions (when regarded at all) rather than a place from which to orient and begin negotiations. Indigenous Nations who engage in Crown land use planning may do so as part of a strategy to advance self-determination. For example, Indigenous Nations may feel obliged to participate in planning to avoid being disadvantaged in future court proceedings that might evaluate a Nation’s participation in Crown consultation and engagement processes (Courtois, 2021, interview). However, a “whole territory approach” (for example one that integrates terrestrial and marine ecosystems) that reflects Indigenous worldviews and priorities is often not possible in mainstream land use planning (Enns, 2021, interview). For example, Indigenous Nations who attempt to address their forestry and conservation issues at a land use planning table, can experience planning processes as “death by 1000 cuts [where] you’re never actually achieving your goal” (Courtois, 2021, interview). This unsatisfactory outcome is in large part due to underlying jurisdictional tensions, which mainstream planning processes are not equipped to resolve.

3.5.2 Planning reinforces state sovereignty

Indigenous participation in land use planning in Canada is situated within liberal discourses of recognition of Indigenous rights, the shortcomings of which have been pointed out by many Indigenous scholars and leaders. These critiques address the ways that the state maintains colonial power relations and asserts state sovereignty by granting or recognizing Indigenous rights—rights that exist regardless of state recognition (Alfred, 2005; Coulthard, 2007, 2014; A. Simpson, 2014; L. B. Simpson, 2017). This paternalism manifests in multi-stakeholder planning processes when Crown agencies (or actual stakeholders) frame Indigenous Peoples as stakeholders at the same level of importance as interest groups (Bowie, 2020). Treating Indigenous governments as stakeholders is a contravention of inherent, Treaty, and Aboriginal rights and has been refuted by Indigenous Peoples (Reo et al., 2017; Townsend, 2009). Porter and Barry (2016, p. 6) explain how in “(post)colonial contact zones”—where uneven power relations influence how cultures converge and clash—planning hinges on various discourses codified through laws, procedures, and policies. For example, “public” and “private”
lands are closely linked to legal fictions such as the Doctrine of Discovery and *terra nullius*. These colonial framings underpin the assumption of Crown sovereignty, and have been rebuked by legal scholars and Canada’s Truth and Reconciliation Commission (J. Borrows, 1999; TRC, 2015; Yellowhead Institute, 2019). Planning surfaces, but typically does not resolve, underlying tensions surrounding jurisdiction, governance, and authority.

As illustrated by the GBR, CBFA, and Ontario’s Far North planning processes, mainstream land use planning and conservation initiatives treat Indigenous Nations as stakeholders at worst or at best as governments in G2G processes where Crown governments retain ultimate decision-making authority. While the intent of the G2G table in the GBR was to reach agreement, the Crown still held ultimate authority in cases of disagreement with Indigenous Nations. Conservancies, seen as one of the “wins” of the GBR Agreement, similarly entrench Crown authority at the expense of collaborative or Indigenous governance models. As Deborah Curran (unmarked; 2017, p. 818) points out, the GBR agreements are an “example of an ongoing negotiated reconciliation process in the context of context of continued, yet circumscribed, colonial management.” Thus even as the planning process improved relationships among Indigenous Nations, the Province of B.C., and ENGOs, it reproduced dominant relations of power and authority. While the state was absent from the CBFA, in Ontario the provincial government reasserted its authority by establishing the Far North Act and associated Far North Planning Initiative. The Crown’s imposition of legislation and an associated planning regime without significant Indigenous input or consent—a contravention of UNDRIP—reinforced the authority of the state to disregard Indigenous opposition. In the GBR, Canadian boreal, and Ontario’s Far North, planners mobilized concepts of “public” and “private” land to advance public and private interests over Indigenous rights and interests. In the GBR, the premise of “public” land was used to justify a public interest, and indeed the Crown’s right to plan in and for Indigenous territories. Meanwhile, in both the GBR and Ontario’s Far North private interests in resource extraction were affirmed through the planning processes.

**3.5.3 Commodification and private ownership reinforced through planning**

Land use planning reinforces capitalist relations—most prominently private land ownership and the commodification of natural resources—often disrupting Indigenous governance and economic systems to the detriment of Indigenous communities (Coulthard, 2014;
L. B. Simpson, 2017; Yellowhead Institute, 2019, 2021). Along with tools like mapping and permitting, planning is a modern adaptation of colonial power that institutionalizes land appropriation for the exploitation of resources (Graben, 2016). Some critics have observed that in lieu of creating conditions for co-existence among settler and Indigenous populations, “planning instead works to resettle the certainty of property in the interests of white, ‘owning’ actors” (Porter & Barry, 2016, p. 64). Informed by land use plans, Crown governments grant resource rights to public and private corporations. The allocation of resources to private interests results in more negative consequences than economic benefits for Indigenous Peoples (Hoogeveen, 2015; Yellowhead Institute, 2019). Planners attempt, with varying degrees of success, to manage the tensions between private and public property claims with Indigenous rights and title. Yet, land use planning is situated within an economic growth paradigm that articulates what many Indigenous Peoples think of as animate relatives in terms such as “sustained yields” and “working forests,” concepts that reveal the underlying motivations of capitalist accumulation (Braun, 1997; Jojola, 2013; Prudham, 2007).

In the Indigenous Leadership Initiative’s experience, Indigenous Nations participate in land use planning processes (despite limited capacity to do so) “because of a potential opportunity to increase their authority. And everything that they’ve experienced around the Far North Act, around the CBFA, around those kinds of government-led processes…has been a disappointment” (Courtois, 2021, interview). Being shut out from or undermined in state-led planning processes has had negative consequences for Indigenous Nations as well as for the environment. Meanwhile, Indigenous and local communities disproportionately bear the consequences of decisions made by Crown governments and corporations (Enns, 2021, interview). As Courtois notes,

because [Indigenous Peoples] are dispossessed from our lands and we're emerging out of the impacts of colonialism, we had a period of time where we didn't have an ability to input into [environmental and wildlife management] decisions. And because we weren't able to exercise our responsibility for a variety of reasons, we're now suffering consequences. (2019, interview)

While the CBFA failed to adequately engage Indigenous Peoples (let alone advance a G2G strategy), the Far North Planning Initiative uses coercive funding tactics to enroll Indigenous
Nations in the province’s development mandate which the designation of protected areas directly enables. As discussed, these processes have attracted intense criticism from Indigenous Nations and organizations including accusations that ENGOs were complicit in the trampling of treaty and Aboriginal rights.

Despite the limited opportunities mainstream planning processes offer to Indigenous Nations, Indigenous Peoples have continued to uphold their responsibilities to their lands, waters, and communities. For many, Indigenous-led conservation and the establishment of IPCAs are fruitful alternatives to conventional pathways of environmental governance and a way of ensuring those responsibilities and relationships to territories are maintained. Within this enactment of Indigenous relationality and responsibility, the conservation sector has a vital opportunity to redress past harms and mistakes to support Indigenous-led conservation and IPCAs, and by virtue of that uplift Indigenous governance, laws, and knowledge systems.

3.6 Rise of Indigenous-led Conservation

The Canadian conservation sector is shifting as proposals for Indigenous-led conservation are surging and Crown governments, ENGOs, and philanthropic organizations are increasingly supporting these initiatives. Indeed, Indigenous-led conservation and the establishment of IPCAs represent “a turning point in Canadian conservation” (Moola & Roth, 2019, p. 201). For Indigenous Nations seeking greater autonomy over their territories, IPCAs are promising alternatives to state-led planning processes and Crown protected areas that circumscribe limited roles for Indigenous governance. By contrast, Indigenous-led conservation is driven by, and articulates the priorities of, Indigenous Nations. IPCAs represent a long-term commitment to conservation, are informed by Indigenous knowledge and legal systems, and are governed solely or primarily by Indigenous Nations (ICE, 2018). In many ways, it seems the contemporary Indigenous-led conservation movement is a response to the limitations that existing forms of

__82 IPCAs are variously referred to as Indigenous Protected Areas, Tribal Parks, Indigenous and Community Conserved Areas, Territories of Life, Indigenous Sovereignty and Protected Areas, etc. depending on the Indigenous Nation, country, and context. IPCAs are not the only form of Indigenous-led conservation. Other initiatives include cultural ecotourism, restoration projects, and land-based learning centres. Though IPCAs are typically grounded in Indigenous law, there is currently no IPCA-specific legislation in Canada outside of Quebec and Manitoba and as such these initiatives can be vulnerable to resource extraction unless they are also designated under Crown protected areas legislation (Chapter 5).__
environmental governance (e.g. planning, conservation, environmental impact assessments) present for Indigenous Nations seeking greater autonomy, jurisdiction, and governance in their territories.

The rise of IPCAs is part of a growing understanding globally that mainstream conservation has negatively impacted Indigenous Peoples worldwide and failed to deliver on conservation objectives (Agrawal & Redford, 2009; Brockington et al., 2008; Chatty & Colchester, 2002a; Dowie, 2009; Roth, 2009; Stevens, 2014). These impacts largely stem from the belief that human presence and activity are antithetical to the conservation of nature, which has resulted in protected area enclosures, or fortress conservation, implicated in processes of state territorialization (Carroll, 2014). This approach is steeped in a colonial worldview that promotes the superiority and separation of (white) people over nature, and constructs nature as a place to recreate, not live (T. Loo, 2001). The consequences of “a worldview that sees humanity separate and above nature” are that Crown-led planning and protected area initiatives are at best dysfunctional and at worst destructive (Enns, 2021, interview). Legislation codifies the human-nature binary by enabling protected areas in Canada that offer limited opportunities for Indigenous governance and the expression of Indigenous knowledge and legal systems, including the continuation of cultural and economic activities (Chapter 5). These human-nature dichotomies are reproduced through the establishment of mainstream parks and protected areas at the expense of more “convivial” forms of conservation that promote living with nature and are better aligned with Indigenous cosmologies (Büscher & Fletcher, 2020).

While debates over conservation philosophy continue, practitioners are increasingly engaging with Indigenous Peoples to address the shortcomings of mainstream conservation and are adopting more “people-friendly” approaches (IUCN, 2003; Stevens, 1997; UN General Assembly, 2008; West et al., 2006; Wilshusen et al., 2003). Indigenous Peoples’ enactment of their cultural responsibilities to their territories—which includes “hunting as a reciprocal social relationship between humans and animals” and economic activities—is critical to Indigenous and decolonial conservation models (Nadasdy, 2011, p. 142). In their guidance to non-Indigenous allies to Indigenous-led conservation, the Lands Needs Guardians Initiative calls on allies to recognize that “Indigenous Peoples’ relationship with the land is the core of Indigenous Nationhood” (Land Needs Guardians, n.d.). In this vein Dragon Smith and Grandjambe (2020b)
state, “In our Indigenous worldviews, Land needs people. We are part of Land - our ongoing and dynamic relationships are integral to sustaining abundance, for everyone.” This relational view necessitates different conversations, processes, and relationships than those that have dominated conservation agendas of the past.

The federal government’s historic investments in conservation over the past several years, and in IPCAs and Guardians in particular, signal a departure from more top-down, exclusionary models of protected area establishment and governance of the past. The Government of Canada is investing $339 million in Indigenous-led conservation (IPCAs and Guardians) noting that this funding is instrumental to Canada reaching its target of protecting 30% of its land and oceans by 2030.\(^{83}\) Canada is funding 52 Indigenous communities to support the establishment of IPCAs (ECCC, 2020a, 2021a, 2021b). IPCAs gained notoriety in Canada following the Indigenous Circle of Experts’ (ICE’s) work in 2017-2018, which was commissioned by the federal government as part of the Pathway to Canada Target 1 process.\(^{84}\) This was the federal government’s strategy to achieve Aichi Target 11 under the Convention on Biological Diversity: protect 17% of Canada’s land and inland waters and 10% of its oceans by 2017.\(^{85}\) In addition to being an effective means of conservation, IPCAs have the potential to contribute to reconciliation efforts in Canada (ICE, 2018; Pathway to Canada Target 1, 2018). IPCAs may focus on the restoration of degraded areas, cultural keystone species, language and culture revitalization, healing, developing conservation economies, and asserting self-determination and sovereignty\(^{86}\) (Bennett et al., 2010; Borrini, 2010; Hill et al., 2008; ICE, 2018; Tran, Ban, et al., 2020). ICE’s mandate culminated when members ceremonially transferred their 2018 report *We Rise Together* to the federal government in 2018.

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\(^{83}\) The federal government’s $1.35 billion investment into the “Nature Legacy initiative” in 2019 was intended to double the size of terrestrial and marine protected areas (25% of total lands and oceans to be conserved by 2025) while reconciling a colonial legacy with Indigenous Peoples (ECCC, 2019). This agenda was furthered by a $2.3 billion investment over five years announced in 2021. This includes over $166 million earmarked for IPCAs and up to $173 million for Indigenous Guardians (ECCC, 2021b).

\(^{84}\) ICE membership included a core group of Indigenous leaders and experts from across Canada, and representatives from Crown governments. ICE’s mandate was to provide guidance to Crown governments on IPCAs and Indigenous-led conservation in the context of reconciliation. ICE held four regional gatherings across Canada to engage Indigenous leadership in the development of their recommendations.

\(^{85}\) Canada did not reach its target and reports being on track to conserve 17% of its land and freshwater by 2023 (Pathway to Canada Target 1, n.d.).

\(^{86}\) The motivations behind IPCA establishment are varied. See Tran et al, 2020 for a discussion.
We Rise Together includes 28 recommendations for how Crown governments and ENGOs could increase biodiversity conservation while advancing reconciliation. ICE’s comprehensive guidance outlines actions related to acknowledging past harms of conservation to Indigenous Peoples, and committing to a different approach moving forward, including specific recommendations related to stewardship, capacity building, funding, and implementation (2018, pp. 58-67). One of these recommendations affirms the interrelated nature of Indigenous-led planning and conservation and underscores the importance of governance models that support collaborative land use planning (Recommendation 17; 2018, p. 62). ICE also calls on ENGOs to support Indigenous-led conservation. If heeded these recommendations could circumvent repeat performances of processes such as the CBFA while building on insights from processes like the GBR. For example, ICE identifies roles for ENGOs and philanthropists as active partners in establishing IPCAs by fundraising and leveraging support from Crown governments (Recommendation 16; 2018, p. 61). In their report, ICE highlights the GBR Agreement as a collaborative process that mobilized funds and expertise in support of a long-term conservation vision, executed in collaboration with First Nations, that supports a local conservation economy. Fundraising and building support for IPCAs are appropriate roles for ENGOs and philanthropists that address two pernicious issues ICE identified with respect to Indigenous-led conservation: financial solutions and capacity.  

ENGOs can support Indigenous-led conservation and IPCAs through ethical funding and capacity building efforts that take direction from Indigenous Nations and are cognizant of the politics of philanthropy. IPCAs require sustained and long-term funding and sufficient human resources to carry out governance, stewardship, and administrative activities. Given the political nature of funding and the way it can perpetuate a colonial politics of recognition (Coulthard, 2014), ENGOs can address gaps in Crown funding programs (e.g., funding unsuccessful applicants). It is incumbent on ENGOs to be cautious of their roles perpetuating an

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87 The other issues are “jurisdiction,” and “cultural keystone species and places” identified collectively as the Four Moose in the report. Efforts that support Indigenous jurisdiction and the protection of cultural keystone species and places—as outlined by Indigenous Nations on whose territories conservation is underway—are also appropriate avenues of ENGO support.

88 Examples of ENGO leverage include fundraising and philanthropic contributions that enabled the $120 million Coast Funds in the GBR, and $30 million Thaidene Nëné Fund entrusted to Lutsel K’e Dene First Nation for the governance and management of Thaidene Nëné.
optics of legitimacy by supporting some initiatives over others. This could be circumvented by promoting IPCAs and Indigenous-led conservation more broadly in addition to supporting specific initiatives. Outside of fundraising, ICE outlines a variety of initiatives ENGOs could support in collaboration with Indigenous Nations including: Indigenous language programs, initiatives that reconnect Indigenous Peoples to their territories, fostering relationships through cross-cultural training that bridge Western and Indigenous knowledge systems, sharing environmental data, providing opportunities for Indigenous governments to distinguish capacity needs, and recognizing relationships between ceremony and capacity building (Recommendation 21; 2018, p. 65). These actions might seem unrelated to ENGOs who have historically focused their efforts on wilderness preservation. Meanwhile, providing conditional funding (i.e. funding with strings attached) could lead to the conservation sector’s cooptation of the Indigenous-led conservation movement by asserting a new array of colonial influences. If the sector is to be a true ally of Indigenous-led conservation it must be exceedingly thoughtful in its actions. This may require slowing down when the impulse is to act quickly to mitigate ecological catastrophes.

Since the Indigenous-led conservation movement is about “a paradigm shift in conservation” how we get there is as important as where we get to, with the former shaping the latter (ICE, 2018, p. 8). As the biodiversity and climate crises intensify over the coming decades and generations, leaders and conservation practitioners will face increasing pressures. While crisis presents opportunities to mobilize the public and governments and influence systems change it can also augment an already acute sense of urgency. As past processes such as the CBFA suggest, when faced with species extinction and an economic downturn the conservation sector and governments are more likely to react quickly or cut corners on consultation and ignore the principles of FPIC. While these pressures are real and have serious, at times irreversible, consequences, human and Indigenous rights and social capital must not be overlooked.

If decolonizing planning and conservation processes and advancing reconciliation are the goals, then political alignment with Indigenous Peoples’ is neither a requirement for, nor a precursor to, collaboration and joint decision-making. Yet historically ENGOs have aligned with Indigenous Peoples to add credibility to their campaigns which tokenizes Indigenous participation. By contrast, ENGOs undermine Indigenous self-determination when they oppose Indigenous Peoples’ rights to pursue resource extraction, development, or hunting in their
territories (see for example, Arnaquq-Baril, 2014). It is unclear how ENGOs would have related to First Nations in the GBR if the main imperative of the Nations was to increase commercial resource extraction and economic development in their territories. Instead, the goal of promoting local economic development while preserving ecosystem viability (i.e. a conservation economy) could still be read as progress over clearcut logging and thus a palatable compromise. ENGOs engaging in decolonizing conservation must be vigilant not to perform a possible “set of evasions, or ‘settlers moves to innocence’” through actions that are less about historical redress and confronting colonialism and racism in the conservation sector, and instead “an attempt to reconcile settler guilt and complicity, and rescue settler futurity” (Tuck & Yang, 2012, pp. 1, 3). Decolonial conservation asks more of ENGOs than simply funding and supporting Indigenous initiatives (particularly when convenient or opportunistic) but necessitates deeper systemic transformation. ICE offers two frameworks for supporting decolonial approaches to conservation and partnerships.

ICE (2018) recommends adopting “Ethical Space” and “Two-Eyed Seeing” when building respectful cross-cultural relationships and advancing Indigenous-led conservation (see also D. Littlechild & Sutherland, 2021). Ethical Space is a way of orienting that cultivates respect for and cross validation of multiple knowledge systems where each knowledge and governance system are legitimate. Relatedly, Etuaptmumk, or “Two-Eyed Seeing”89, refers to a strengths-based approach that integrates the gifts of Indigenous and Western knowledge systems and practices. In the new conservation paradigm, fostering relationships is key. These include relationships among different cultural groups, governments, stakeholders, industry, and the public, as well as with the animate species who share the ecosystems we all depend on. Building early and ongoing relationships based on mutual respect, reciprocity and consent are consistent with best practices in consultation, the principles of UNDRIP, and are cornerstones in G2G processes. Moving beyond the stakeholder model to respectful partnerships and G2G processes with Indigenous Nations is also paramount to surmounting colonial politics. Evoking Ethical Space requires respecting and deferring to Indigenous governance, knowledge, and legal

89 Etuaptmumk is a Mi’kmaw concept that translates to Two-Eyed Seeing which Mi’kmaw Elder Albert Marshall shared with ICE. ICE recommends that Two-Eyed Seeing approaches to management planning must be “rooted in the abiding values of spirituality and respect for the use of traditional protocols” (ICE; 2018, p. 57).
systems. At times, it will require suspending or shifting environmentalist, government, and corporate agendas and finding new spaces and methods of collaboration. Working in Ethical Space and Two-Eyed Seeing requires flexibility, creativity, and adaptability (ICE, 2018). Since these principles require skills and practice, the conservation sector could develop internal and organizational capacity in these areas which would help them to be allies—rather than impediments—to Indigenous-led conservation. Allyship involves trusting Indigenous leadership and supporting Indigenous nationhood, elevating Indigenous voices including Indigenous science, and participating respectfully while promoting Indigenous-led solutions (Land Needs Guardians, n.d.).

3.7 Conclusions

Despite its shortcomings, Indigenous Nations have participated in land use planning initiatives nationwide from consulted stakeholders to governments in G2G processes to ensure their visions and priorities are included in processes with significant environmental outcomes. Yet, in several contemporary examples, Indigenous Nations have been shut out from or offered conditional terms of participation counter to best practices in consultation, UNDRIP, and Canada’s reconciliation mandate. The inconsistency with which ENGOs and Crown governments have engaged with Indigenous Nations in recent land use planning processes raises questions about how well positioned these actors are to support Indigenous-led conservation in Canada, a growing movement poised to surpass colonial philosophies embedded in mainstream conservation. Previous planning processes in the GBR, Canada’s boreal, and Ontario’s Far North suggest there is a real risk that Crown governments and ENGOs will reproduce settler-colonial practices, policies, and perspectives and potentially coopt the Indigenous-led conservation movement. This could happen if the conservation sector influences the direction of IPCAs through conditional support or outright opposes Indigenous-led conservation initiatives if they do not align with their agendas. A more transformative reading of reconciliation through conservation is that the conservation sector’s agreement with Indigenous tactics or visions in their territories is not a necessary precursor to supporting Indigenous governance.

The GBR, CBFA, and Far North planning processes contain insights useful for the conservation sector if it is to support Indigenous-led conservation and IPCAs. The GBR planning
process made important contributions to the planning and conservation landscape in B.C., Canada, and even worldwide. While elevating Indigenous governance in land use decisions and conservation, the GBR process also affirmed the state’s veto power in planning and protected areas. Since the CBFA and Far North Planning Initiative did not build on the successes in the GBR, despite overlapping temporally and including some of the same ENGOs, questions persist about the extent to which the conservation sector metabolized insights from the supposedly ground-breaking GBR Agreement. Read in one way, the failures and criticism of the Canadian boreal and Ontario’s Far North planning processes reinforce the lessons of the GBR about meaningfully including Indigenous Nations in environmental governance, including land use planning and conservation. Another reading suggests a disconnect persists within the conservation sector raising doubts about the transformative nature, durability, and transferability of past insights into subsequent processes. Recent history thus offers a cautionary to the conservation sector who might inadvertently impede, subvert, or undermine Indigenous-led conservation and IPCAs—despite increasingly stating its support. To mitigate these risks, the conservation sector can engage in introspection at the organizational and sector levels, combined with ongoing efforts to address systemic colonialism at these scales.

The conservation sector in Canada is maturing and in many ways rising to meet the opportunities and challenges of Indigenous-led conservation. As an expression of Indigenous governance, IPCAs present a promising alternative to mainstream land use planning, a Eurocentric practice linked to the establishment of Crown protected areas and market-oriented approaches to environmental governance. IPCAs are governed by Indigenous Nations, given legal effect through Indigenous law, and draw on Indigenous knowledge systems. As ICE (2018, p. 8) outlines, there are many opportunities for ENGOs and Crown governments to contribute to a “paradigm shift in conservation.” ICE’s recommendations offer clear guidance for Crown agencies and ENGOs wishing to support Indigenous-led conservation and IPCAs. Some of these recommendations are pragmatic (e.g. funding and capacity support) while others are process-based and relational (e.g. adopting frameworks for collaboration such as Ethical Space and Two-Eyed Seeing). The lessons ENGOs and Crown agencies learned in the past few decades about the importance of Indigenous engagement, consent, and governance have in many ways primed the conservation sector to support Indigenous-led conservation. Yet, if the conservation sector is
truly ready to move beyond the “dark history of protected areas in Canada” it must ensure lessons from past land use planning processes are heeded (ICE, 2018, p. 27). Indeed, if we are to enter a new era of decolonial conservation, it is incumbent on ENGOs and Crown agencies to elevate Indigenous governance, authority, and jurisdiction. In their advice to potential allies of Indigenous-led conservation, the Land Needs Guardians initiative (n.d.) states

Bring a good heart and a desire to learn. The history of colonialism weighs heavily on this country, but supporting Indigenous leadership, stewardship, and self-determination is a step towards reconciliation. Be an active participant in creating this story of strength and leadership together.

Many tools, frameworks, recommendations exist for supporting decolonial and cross-cultural collaborations to advance reconciliation through conservation and planning. Learning from past processes and adjusting course is a critical aspect of allyship that is needed if IPCAs and Indigenous-led conservation are to be advanced in the spirit and practice of reconciliation.
4 Indigenous and Decolonial Futurities: IPCAs as Potential Pathways of Reconciliation

Abstract
Federal, provincial, and territorial governments, the conservation sector, academics, and some Indigenous Nations and communities are framing Indigenous Protected and Conserved Areas (IPCAs)—a newly recognized form of Indigenous-led conservation in Turtle Island/Canada—as advancing reconciliation between Crown governments, the conservation sector, and Indigenous Peoples. Yet it is often unclear what is being, or could be, reconciled through IPCAs. Though highly diverse, IPCAs are advanced by Indigenous Nations and communities who protect them, with or without partners, according to their Indigenous knowledge, legal, and governance systems. IPCAs may be expressions of “generative refusal,” visions of Indigenous futurities, and commitments to uphold responsibilities to the lands, waters, and past and future generations. IPCAs refuse settler colonial ontologies including the expectation of ongoing white settler privilege, which relies on the continued appropriation of lands and resources. By examining the practical, relational, and systemic challenges Indigenous Nations and communities advancing IPCAs encounter, I reveal opportunities for Crown governments and the conservation sector to cultivate decolonial responses that support IPCAs. Indigenous Nations and communities advancing IPCAs may face challenges with resource extraction, laws and legislation, financing, relationships and capacity, and jurisdiction and governance. I contend that IPCAs could be pathways of reconciliation if Crown governments and the conservation sector—in response to the requests of specific Nations and communities advancing IPCAs and Indigenous policy recommendations—support IPCAs to flourish. This requires dismantling the roadblocks arising from settler ontologies and institutions. Thus, not only could Indigenous futurities be advanced, but we might also cultivate decolonial futures in which all peoples and species can thrive.
4.1 Introduction

Genocide is a difficult word for Canadians to swallow. Yet, the Truth and Reconciliation Commission (TRC) of Canada confirmed the painful truth to Canadians and the world when they released their final report in 2015. The TRC opened their report by declaring that the residential school system was central to an elimination policy that amounted to “cultural genocide” (TRC, 2015, p. 1). The report details the traumatic actions of the churches, missionaries, and governments on Indigenous children and families and makes 94 Calls to Action directed to Crown (i.e. federal, provincial, territorial, municipal) and Indigenous governments, religious and educational institutions, the corporate sector, and the public. Once fulfilled, these actions of redress are intended to advance reconciliation by confronting the legacy of the residential school system. In their report, the TRC describes how the Canadian state, building on the imperialistic motivations of colonial Britain and France, utilized insidious tactics intended to oppress Indigenous Peoples and appropriate their territories to build wealth. This wealth continues to be concentrated in White settler society while Indigenous Peoples have had to fight vociferously for their rights to exist and thrive in their own territories (Yellowhead Institute, 2021). The residential school system was part of Canada’s Aboriginal policy, which—for over a century—sought to “eliminate Aboriginal governments; ignore Aboriginal rights; terminate the Treaties; and, through a process of assimilation, cause Aboriginal peoples to cease to exist as distinct legal, social, cultural, religious, and racial entities in Canada” (TRC, 2015, p. 1).

Reconciliation means different things to different people. The Government of Canada describes reconciliation as “building a renewed relationship with Indigenous Peoples based on the recognition of rights, respect and partnership,” which involves efforts “to address past harms, support strong and healthy communities, and advance self-determination and prosperity”

90 The Calls to Action are related to children and youth, language and culture, health, justice in the legal system, history and commemoration, and reconciliation (CIRNAC, 2022a; TRC, 2015).
91 “Aboriginal” includes First Nations, Inuit, and Métis peoples and is the term included in Section 35 of the Canadian Constitution that outlines the protection of Aboriginal rights. The term “Indigenous” is more commonly used now in Canada including by the Canadian government who changed the name of the agency responsible for Crown-Indigenous relations. In 2015, the federal government changed the name Aboriginal Affairs and Northern Development Canada to Indigenous and Northern Affairs Canada. In 2017, the Government of Canada replaced this agency with two new departments: Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC) and Indigenous Services Canada.
(CIRNAC, 2022b). Yet, there is disagreement over who must become reconciled to what and to whom. The TRC (2015, p. 187) has pointed out that the federal government’s approach to reconciliation requires “Aboriginal peoples’ acceptance of the reality and validity of Crown sovereignty and parliamentary supremacy,” while Indigenous Peoples “see reconciliation as an opportunity to affirm their own sovereignty and return to the ‘partnership’ ambitions they held after Confederation.” While remaining a complex and fraught subject, reconciliation is being increasingly mobilized in contexts ranging from health care, education, and the justice system.

What do genocide and reconciliation have to do with the conservation of ecosystems and biodiversity? Two things are important to take away from Canada’s troubled start to nation building. Firstly, jurisdiction over Canada’s lands and waters is contested and unresolved (J. Borrows, 2015; ICE, 2018; Yellowhead Institute, 2019). Indigenous civilizations predate European settlement by many thousands of years in what came to be known as the Dominion of Canada in 1867. Prior to the settlement of European colonists, Indigenous Peoples had sophisticated environmental stewardship and governance systems, informed by Indigenous law92 (Clogg et al., 2016; Dick et al., 2022). Since European colonization, Indigenous knowledge, governance, and environmental stewardship systems—along with the ecological integrity of ecosystems—have been disrupted by successive waves of industrial expansion including resource extraction, energy development, urbanization, and infrastructure development (Dick et al., 2022; Yellowhead Institute, 2019). As Paulette Fox (Blackfoot elder and scholar),93 reflecting on the colonial policy of terra nullius,94 points out, “the resources have been the target and the Indigenous Peoples have been the collateral damage” (CRP Elder’s Lodge, 2022; see also Craft & Regan, 2020, pp. xi–xii). Secondly, building on earlier regimes of displacement, state-led conservation has functioned as another modality of land expropriation, this time under

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92 For example, in their article on First Nations stewardship systems in coastal B.C., Dick et al. (2022) describe how Indigenous Peoples have historically managed their ecosystems and species in ways that increase the health and abundance of the species, rather than deplete them.
93 I follow Max Liboiron’s (Red River Métis/Michif/Treaty 6 territory) guidance on naming practices when referring to authors (2021, pp. 3–4). The first time I introduce an author in a chapter I note their self-identification, regardless of their ethnicity, following their name. When I could not find this information, I signal the author as “unmarked,” as per Liboiron’s example.
94 Imperial Britain and Spain deployed the concept of terra nullius alongside the 15th century Doctrine of Discovery to justify their colonization of the Americas by claiming the lands were empty and not being productively used. The TRC (2015) has called on Canada to denounce this colonial legal decree.
the banner of environmentalist, recreational, and capitalist objectives (Youdelis, 2016). Since the late 19th century, and as recently as the 1930s, Indigenous Peoples across Canada were forcibly removed from their territories to create parks and game preserves (Binnema & Niemi, 2006; Sandlos, 2008). While conservation practice has since evolved, Crown governments in Turtle Island/Canada95 still exclude Indigenous Peoples from, and criminalize livelihoods within, parks established in their territories (Dragon Smith & Grandjambe, 2020a). Co-management arrangements for parks and protected areas—where they exist—tend to limit Indigenous governance to varying degrees of advisory roles (Nadasdy, 2005; Sandlos, 2014). Conservation is thus part of the structure of settler colonialism and embedded within Eurocentric ideologies of wilderness and modernity (T. Loo, 2001; Youdelis et al., 2020). Unsurprisingly, there are ample opportunities for redress, restitution, and reconciliation in conservation, particularly given the “dark history of protected areas of Canada” (ICE, 2018, p. 27). Further, reconciliation must permeate all aspects of Canadian society (TRC, 2015), which includes transforming the conservation sector.

Various actors—from Indigenous leaders, Crown governments, scholars, to conservationists—are framing Indigenous Protected and Conserved Areas (IPCAs), a newly recognized form of Indigenous-led conservation in Turtle Island/Canada, as potentially facilitating or even being reconciliation. Taking an expansive view, the Indigenous Circle of Experts (ICE; 2018, p. 6) describes a key characteristic of IPCAs as “an opportunity for true reconciliation to take place between Indigenous and settler societies, and between broader Canadian society and the land and waters, including relationships in pre-existing parks and protected areas.” Meanwhile, the Dasiqox Nexwagwezzan Initiative in Tsilhqot’in territory/B.C. describes its emergence as a Tribal Park “as a reconciliatory pathway to reconstruct the

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95 In an effort to decolonize language and geographical place names I use the name of the Indigenous territory or treaty number first followed by the English name. Turtle Island is often used to refer to North America, thus, when referring to Turtle Island I specify whether I mean North America or Canada. The name Turtle Island originates from a creation story about Sky Woman who falls from the sky and is offered sanctuary on a turtle’s back upon which the world is built. This story originates from Anishinaabe and Haudenosaunee peoples of the Great Lakes. While Turtle Island is not a pan-Indigenous name for North America or Canada (a multitude or creation stories exist throughout Turtle Island) it is quite widely used, including in some conservation circles. I use it here to challenge the primacy of the Canadian state as the supposedly undisputed sovereign Nation with sole authority to govern the lands and waters that came to be known as Canada.
relationship with the Crown” (Dasiqox Tribal Park, 2016, p. 5), Lutsel K’e Dene First Nation’s Chief Negotiator describes the establishment of Thaidene Nëné with territorial and federal partners as “an example of what reconciliation looks like for us” (CRP et al., 2020), and the Kaska Dene have requested federal and B.C. governments support Dene K’êh Kusân [IPCA] “in the spirit and practice of reconciliation” (Dene K’êh Kusân, 2022). Meanwhile, Environment and Climate Change Canada (ECCC), the federal agency that administers a federal grants initiative for IPCAs, describes Canada Target 1 Challenge as advancing “Indigenous-led conservation and reconciliation” (ECCC, 2020a).

Yet, it is unclear what exactly is being, or could be, reconciled through IPCAs, particularly given the propensity to dilute reconciliation. In Canada, there is a growing interest in Indigenous-led conservation and IPCAs matched by a surge of federal and philanthropic funding and the advancement of new research collaborations and cross-sectoral partnerships. Although Indigenous Peoples have been in relationship with their territories for millennia, IPCAs gained popularity in Turtle Island/Canada following ICE’s watershed (2018) report, We Rise Together. According to ICE, (2018, p. 5), IPCAs “are lands and waters where Indigenous governments have the primary role in protecting and conserving ecosystems through Indigenous laws, governance and knowledge systems.” In a reversal of the usual dynamics, Indigenous Nations and communities6 may invite Crown governments and stakeholders to collaborate on IPCAs (e.g. with financing/fundraising, governance, operations, etc.). Although potentially helpful under some circumstances, Indigenous Nations do not require Crown recognition or approval for their IPCAs, which often exist outside the purview of Canadian legislation (see Chapter 5). In their final report, ICE advanced the concepts of IPCAs and reconciliation while making concrete recommendations for primarily Crown governments to support Indigenous leadership as well as conditions that enable IPCAs. This guidance includes actions to address past harms related to conservation, build relationships, discontinue practices that impede IPCAs, and contribute to new approaches and tools that support IPCAs.

6 Henceforth, I refer to “Indigenous Nations” in an encompassing way that includes Indigenous Nations and communities, and their governments, across Turtle Island/Canada. When referring to specific Indigenous Nations or communities I adopt their preferred naming convention where known (e.g. "Tsilhqot’in communities" to refer to the six First Nations that make up the Tsilhqot’in Nation).
In this chapter I engage with IPCAs as potential pathways of reconciliation that illuminate possibilities for, as well as impediments to, reconciliation that in turn lead to various possible futures, or futurities. It is productive to think about IPCAs not as parks managed by Indigenous Peoples but as processes led by Indigenous Peoples that are shaped by an assemblage of diverse actors who influence relationships (e.g. between Indigenous-Crown governments, Indigenous-settler society, Indigenous-Indigenous Nations, human-environment). These relationships in turn shape future configurations of land, governance, power, and well-being. This dynamic, relational, and unfolding framing of IPCAs is fruitful for interrogating the relationships between decolonization, reconciliation, and conservation in Turtle Island/Canada. I contend that IPCAs, as potential pathways of reconciliation, reveal numerous roadblocks to, and therefore opportunities for, reconciliation. After positioning myself in this research and describing my methods, I discuss the intersections of conservation and reconciliation in Turtle Island/Canada and outline some of the possibilities their encounter invokes. I then analyze some of the major hurdles Indigenous Nations face as they establish and care for their IPCAs. I argue that the meaningful engagement with and resolution of these roadblocks provides opportunities for Crown and municipal governments, the conservation sector, and industry to engage in concrete actions that support Indigenous governance and self-determination. In this way, IPCAs may indeed be pathways of reconciliation leading to Indigenous and decolonial futurities. While this study pays attention to reconciliation in an environmental context, some of the findings may be generalizable to other dimensions of reconciliation (e.g. healthcare, education, etc.) and to other Commonwealth or settler colonial states where reconciliation discourse is being increasingly mobilized. This chapter contributes to the growing bodies of literature on IPCAs in Turtle Island/North America (Carroll, 2014; Murray & Burrows, 2017; Murray & King, 2012; Tran, Neasloss, et al., 2020; Youdelis et al., 2021) and reconciliation in the context of conservation (Finegan, 2018; D. B. Littlechild et al., 2021; Moola & Roth, 2019; M’sɨt No’kmaq et al., 2021; Zurba et al., 2019).

4.2 Methods

As a second-generation white Canadian woman of European descent, I write from the perspective of someone committed to taking up my responsibilities as an uninvited visitor to the
lands and waters I call home as well as a Canadian with treaty responsibilities. Since the experts on IPCAs are the Indigenous Nations advancing them, I amplify Indigenous voices and perspectives in the academic and grey literature and foreground insights shared with me by my research collaborators who have, or are establishing, IPCAs. Given the heterogeneity of Indigenous Peoples in Canada, a myriad of perspectives and concerns about Indigenous-led conservation and IPCAs abound, as do the strategies that Indigenous Nations pursue in their territories. Thus the perspectives in this paper reflect my observations as a community-engaged researcher involved in a nation-wide decolonial research partnership, and a concerned citizen intervening in systemic colonialism, racism, and sexism as they pertain to ongoing ecological and cultural harms. I write primarily to a settler audience including Crown governments, the conservation sector, industry and the public and call for widespread adaptation and change in response to the opportunities IPCAs pose as well as the challenges they reveal.

To make sense of the confluence of reconciliation and conservation, I draw on political ecologies of conservation and literature by, and conversations with, Indigenous and decolonial scholars and practitioners theorizing about reconciliation and Indigenous resurgence. Between 2018 and 2021, I conducted nine key informant interviews with the leadership and core staff of two established and emerging IPCA initiatives in British Columbia (B.C.), Dasiqox Nexwagweżʔan Initiative (Xeni Gwet’in First Nations Government and Yunesit’in Government), Kitasoo Xai’xais Protected Areas (Kitasoo Xai’xais Stewardship Authority—KXSA), and Thaidene Nëné (Lutsel K’e Dene First Nation) in the Northwest Territories (NWT). I conducted an additional eight interviews with representatives of leading Indigenous organizations supporting Indigenous-led conservation, and federal and provincial (B.C.) agencies with roles in conservation. Together, these interviews relayed the visions several Indigenous-led initiatives hold for their territories and illuminated the possibilities and constraints various actors from different sectors perceive with respect to IPCAs, conservation, partnerships, and reconciliation. My research collaborations with Dasiqox Nexwagweżʔan Initiative (Tsilhqot’in territory, interior B.C.) and KXSA (Kitasoo Xai’Xais territory, central coast, B.C.) have been instrumental to my understanding of the pragmatic, entrenched, and systemic obstacles to reconciliation as they forward their visions for their IPCAs (see Sections 2.5.1 and 2.5.2). Xeni Gwet’in First Nation and Yunesit’in Government are jointly advancing Dasiqox Nexwagwežʔan IPA (Dasiqox Nexwagwežʔan IPA).
Nexwagweẑʔan). They are two of six Tsilhqot’in communities that collectively make up the Tsilhqot’in Nation. KXSA supports Kitasoo Xai’xais Nation with stewardship decisions that encompass Kitasoo Xai’xais law. My collaborators generously described some of the motivations that propelled the Tsilhqot’in communities of Xeni Gwet’in and Yunesit’in, Kitasoo Xai’xais Nation, and Lutsel K’e Dene First Nation to pursue IPCA establishment. They also shared their reflections about possibilities for reconciliation through IPCAs as well as the challenges they face.

Following the principles of community-engaged (e.g. Cahill, 2007; Stanton, 2014), decolonizing (e.g. L. T. Smith, 1999; Tuck & Yang, 2014), and Indigenous (e.g. Kovach, 2009; Wilson, 2008) methodologies, I worked with my community partners (Dasiqox-Nexwawezʔan Initiative and KXSA) to design the research scope and identify appropriate methods in each context. In addition to adhering to the standards, processes, and procedures outlined by the Research Ethics Board at the University of Guelph, I entered into research protocol agreements with the Dasiqox Nexwagweẑʔan Initiative and KXSA (independently of one another). Both partners advocated for a small number of knowledgeable individuals to participate in the study in lieu of a broader community-engaged approach to avoid research fatigue and to focus the study on the experiences of individuals most involved with the initiatives (e.g. leadership and technical staff). In addition to conducting key informant interviews, I was an invited participant in Dasiqox Nexwagweẑʔan’s leadership and governance meetings between 2019 and 2020. This experience, combined with multiple trips to Tsilhqot’in territory to attend meetings related to Dasiqox Nexwagweẑʔan, title discussions, and land-based gatherings facilitated relationship building and my understanding of the Tsilhqot’in’s IPCA, particularly the opportunities and challenges it faces. Meanwhile, my collaboration with KXSA directly responds to KXSA’s request to address legal and legislative issues related to IPCAs (Chapter 5).

The Tsilhqot’in communities of Xeni Gwet’in and Yunesit’in and the Kitasoo Xai’xais Nation have had different experiences and histories with colonial regimes of resource management and conservation. These experiences have influenced their interests in and motivations for pursuing IPCA establishment. However, both Dasiqox Nexwagweẑʔan Initiative and Kitasoo Xai’xais Protected Areas seek to restore Indigenous jurisdiction, governance, and authority over their territories in the face of resource extraction while generating local economic
development opportunities consistent with their conservation visions. I draw on examples from both contexts, as well as from Thaidene Nënê, which I have discussed elsewhere (Chapter 5), and occasionally other IPCAs in Turtle Island/Canada. Together, these diverse initiatives illustrate the ways in which IPCAs may be facilitating reconciliation, or could facilitate reconciliation, under certain circumstances. Given the specificity of individual IPCAs and the heterogeneity of the Nations pursuing them, I caution against an uncritical extrapolation of insights from Dasiqox Nexwagweʔan and Kitasoo Xai’xais Protected Areas to other IPCAs in Turtle Island/Canada. However, the challenge and opportunities to reconciliation through IPCAs that I analyze here offer a framework for further analysis of the conditions, contexts, and factors surrounding other IPCAs. While the specifics differ from Nation to Nation, shared experiences of settler-colonialism (past and ongoing) have created similar challenges for many Indigenous Nations in Turtle Island/Canada. As such, the roadblocks to reconciliation through IPCAs discussed here are likely relevant to a number of IPCAs across the country, and potentially to an international context as well.

The five broad challenges I discuss (Section 4.5) are informed by the literature,97 key informant interviews, and my work as a scholar practitioner involved in a decolonial research partnership,98 my work with an Indigenous-led organization whose mission is to empower IPCAs in Turtle Island/Canada,99 and my consulting practice through which I support Indigenous Nations and other groups to advance decolonial conservation and stewardship practices. I use illustrative examples from my research collaborations and other initiatives to shed light on how these challenges are playing out in some IPCAs.

97 See Tran et al. (2020) for an overview of challenges related to IPCAs in a global context. The authors identified the following overarching themes from their literature review: governance and management (including capacity), state institutions (including legal challenges), partnerships and collaboration, and other forces (including systemic marginalization of Indigenous Peoples).
98 The Conservation through Reconciliation Partnership (CRP) is an Indigenous-led and Canada-wide network of partners working together to advance IPCAs and Indigenous-led conservation (CRP, 2022). In this capacity I have participated in working groups, led or participated in collaborative projects, and organized public webinars.
99 The IISAAK OLAM Foundation is an Indigenous-led organization that builds capacity for IPCAs by supporting Indigenous leadership and educating Canadians about the value of IPCAs (IISAAK OLAM Foundation, 2022). In this capacity I forged relationships with IPCA initiatives across the country and supported participating initiatives to share their stories of Indigenous-led conservation on a national website for IPCAs, the “IPCA Knowledge Basket” (https://ipcaknowledgebasket.ca).
4.3 A Closer Look at Reconciliation

Although reconciliation is increasingly discussed in Canada, corresponding societal transformations at institutional and systemic scales have been gradual. Despite some important strides, progress on the TRC’s 94 Calls to Action have been slow. The Government of Canada did not offer its tardy apology to Indigenous Peoples in Canada for the residential school system and its assimilationist objectives until 2008. In 2015, the Government of Canada fulfilled the TRC’s recommendation to (finally) adopt the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) as its reconciliation framework. Legislation to implement UNDRIP was enacted provincially in B.C. in 2019 and federally in 2021. This is significant since UNDRIP is a non-binding international instrument containing guidance pertinent to conservation (Articles 18, 25-29, and 40). The new legislation requires the Province of B.C. and the Government of Canada to review and amend existing legislation, or enact new legislation, to align its laws with UNDRIP. However, there appears to be a reluctance on the part of the Crown to address UNDRIP articles dealing with lands and resources (Statnyk in Jewell & Mosby, 2021). While the previous federal government described UNDRIP as an “aspirational document” (Wilt, 2017), former ICE Co-Chair Danika Littlechild describes UNDRIP as the minimum standards that require fulfilling, that is, the “floor, not the ceiling” (Youdelis et al., 2020, p. 247). In addition to UNDRIP, Canada has adopted other non-binding policies intended to advance reconciliation (e.g. CIRNAC, 2019; Department of Justice Canada, 2018). Collectively, these policies, legislation, and frameworks articulate principles and guidance for more equitable relations among Crown governments and Indigenous Nations.

Despite the growing fanfare around reconciliation in Canada, many Indigenous scholars are skeptical about reconciliation and see it as a state project concerned about optics over substance (e.g. Alfred, 2005; Corntassel et al., 2009; Coulthard, 2014; Daigle, 2019; Manuel, 2017; McGregor, 2018a; A. Simpson, 2014; L. B. Simpson, 2017; K. P. Whyte, 2018). Just as decolonization has become a metaphor, absent the return of land to Indigenous Peoples (Tuck & Yang, 2012), so too have scholars critiqued reconciliation discourse for centering the absoluition

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100 These include the “Recognition and reconciliation of rights policy for treaty negotiations in British Columbia” issued by Crown-Indigenous Relations Northern Affairs Canada in 2019 and “Principles respecting the Government of Canada's relationship with Indigenous peoples” issued by the Department of Justice in 2018.
of settler guilt, soothing settler anxieties related to Indigenous resurgence, and attempting to secure settler—and not Indigenous or decolonial—futurities (Mackey, 2016). Through performative acts of reconciliation, such as apologies that are not accompanied by timely, significant, and effective actions of redress and restitution, white settlers avoid taking responsibility for the perpetuation of harm while attempting to appear progressive (Daigle, 2019; DiAngelo, 2021; Slater, 2019). As Taiaiake Alfred (Kanien’kehaka/Mohawk) contends,

> Without massive restitution made to Indigenous peoples, collectively and as individuals, including land, transfers of federal and provincial funds, and other forms of compensation for past harms and continuing injustices committed against the land and Indigenous peoples, reconciliation will permanently absolve colonial injustices and is itself a further injustice. (2009, p. 181)

In an expanding area of settler philanthropy, reconciliation can be code for “ongoing harm under a prettier, brighter umbrella” (Trimble, 2021, p. 2). Reconciliation is hollow when it avoids confronting the interconnected and toxic workings of colonialism, racism and white supremacy, and sexism. Yet, superficial reconciliation is palatable to settler society precisely because it is less affronting and disruptive. As a necessary precursor to reconciliation, addressing systemic colonialism at all scales—including our relationship with the Earth—is important. It should feel confronting, and it does ask something significant of settler society. Not only are there strong moral grounds for an intersectional confrontation of systemic colonialism, but it is also clear the industrial-colonial complex is perpetuating systems of domination that threaten the well-being and survival of countless species, humans included (LaDuke & Cowen, 2020; K. Whyte, 2017; K. P. Whyte, 2017). As an alarming number of species, cultures, and languages diminish so do knowledge systems encoded with wisdom for living in reciprocity and balance (Gorenflo et al., 2012; Kimmerer, 2017). A growing awareness of these interconnected issues is catalyzing the conservation sector to take a seat at the reconciliation table.

Although the critiques of reconciliation are troubling, I contend seriously with reconciliation in the context of conservation since redress, restitution, and justice are sorely needed in the sector, the onus for which is squarely on the shoulders of Euro-settler society. As the TRC (2015, p. 12) stated, “reconciliation is not about ‘closing a sad chapter of Canada’s past,’ but about opening new healing pathways of reconciliation that are forged in truth and
justice.” Within conservation policy and practice, the political, legal, socio-economic, cultural, and ecological opportunities for reconciliation are significant. Conservation can be “a tool for reconciliation,” part of a broader process of relational repair among peoples and nations, and with the lands and waters (Zurba et al., 2019, p. 13). The winding paths of conservation and reconciliation have something important to show us. First they reveal where settler society, particularly white settler society, needs to move beyond polite rhetoric into respectful action. Secondly, the intersection of conservation and reconciliation offers clues for charting a course away from mass species extinction, climate change, and disparity towards more just, inclusive, and ecologically viable futures. A decolonial approach to reconciliation assumes the onus of responsibility to reconcile is on the governments, institutions, organizations, and individuals who have perpetuated and benefited from colonization. As Kyle Whyte (Potawatomi; 2018, p. 277) describes, reconciliation entails transforming “violent and harmful relationships into respectful relationships” that are “morally grounded” (i.e. based in trust and integrity), “just” (i.e. fair and empowering), and “preventative of harms” (i.e. halting ongoing violence). To this list I would add (re)generative (i.e. ensuring decolonial and Indigenous futures) and rooted in a “reciprocal ethic of care” with our human and non-human relatives alike (i.e. ensuring ecologically abundant futures) (McDermott & Roth, Forthcoming). Given the propensity for ongoing injustice and oppression, reconciliation is necessarily an active and ongoing process. It requires dedicated resources, creativity, and commitment, and an overhaul of mainstream culture and politics, institutions, and relations of power.

4.4 Conservation Through Reconciliation/Reconciliation Through Conservation

In a prominent example that mobilized reconciliation discourse in conservation, in 2017, federal, provincial, and territorial agencies launched a program called Pathway to Canada Target 1 (National Advisory Panel, 2018). The initiative described its vision as follows:

In the spirit and practice of reconciliation, Canada conserves its natural diversity in interconnected networks of protected and conserved areas for the enduring benefit of nature and future generations, through collective efforts in the Pathway to Canada Target 1 and beyond (Pathway to Canada Target 1, n.d.).
The goal of this initiative was to meet non-binding biodiversity conservation targets set by the international Convention on Biological Diversity (CBD; CBD, 2010) to which Canada is a signatory. Canada Target 1 is the Canadian version of CBD Aichi Target 11, which set a goal of 10% of marine and 17% of terrestrial environments protected by 2020. At the time the process was launched, Canada was lagging behind its targets (the marine target was eventually exceeded but with quality concerns, and only 12.5% of land and freshwater were protected; Figure 4-1) (CPAWS, 2021; Pathway to Canada Target 1, n.d.). Canada, and other CBD signatories, are now aiming to protect 30% of terrestrial and marine ecosystems globally by 2030 and eventually 50% by 2050 (CBD, 2020a, 2021), a topic of heated debate (Büscher et al., 2017). Meanwhile, support for Indigenous-led conservation, including IPCAs and Indigenous Guardians, figure prominently in Canada’s recent (2018-2026) investments in conservation (ECCC, 2021c).

**Figure 4-1. Proportion of area conserved, Canada, 1990 to 2021**

Source: ECCC, 2022a

Influenced by the advocacy of Indigenous leaders, the Government of Canada agreed to support the convening of ICE in 2017 to Indigenize policy recommendations for conservation. The core membership of ICE included two Indigenous co-chairs and nine Indigenous, or Indigenous-appointed, members from First Nations and Métis Nations across the country. Inuit governments chose to engage with Crown governments through different forums. ICE was tasked with making recommendations to Crown governments on how they could fulfill the
mandate of Pathway to Canada Target 1. With input from Indigenous Peoples across the country, ICE’s overarching recommendation was for Crown governments to support the creation of IPCAs regardless of whether they count towards CBD targets (see also Zurba et al., 2019). Unlike mainstream parks and protected areas that—with some notable exceptions—limit Indigenous governance over and use within their borders, IPCAs are a promising alternative for Nations wishing to protect their territories on their own terms. As a result, IPCAs are being declared and established by Indigenous Nations across Turtle Island/Canada.

The diversity of Indigenous Nations in Canada manifests in the diversity of IPCAs being proposed and established across the country, in large part galvanized by a recent influx of federal funding. While IPCAs are defined by the Nations creating them, they share a core characteristic of being Indigenous-led conservation initiatives (with “conservation” often broadly construed). This means IPCAs are established and governed by Indigenous Nations (with or without invited partners) and represent a long-term commitment to conservation. IPCAs are guided by Indigenous knowledge and legal traditions, elevate Indigenous rights and responsibilities, and are the foundation for local economies (ICE, 2018). As decided by the Nations declaring them, IPCAs may also be a means of revitalizing culture, language and Indigenous law, healing, increasing food security, restoring degraded ecosystems, protecting cultural keystone species, and protecting lands and waters for future generations (Tran, Ban, et al., 2020). Each of these premises disrupts the wilderness ideology and preservationist, recreational, and capitalist goals of mainstream parks and protected areas which are part of the colonial history of conservation (ICE, 2018, p. 27).

IPCAs are further evidence of Indigenous resurgence reflected in a host of strategies Indigenous Nations are using to reclaim their territories and advance their visions for, and responsibilities to, current and future generations. Indigenous-led conservation is not a new phenomenon despite the recent interest from Crown governments and the conservation sector. Former ICE Co-Chair and Ha’uukmin Tribal Park Co-Founder Eli Enns describes IPCAs as “a modern-day innovation and application of very old values and principles together with modern day science and technology for sustainability. By its very nature it's a reconciliation model” (2021, interview). The growing national interest in IPCAs reflects an expanding mainstream engagement with what constitutes conservation, who gets recognized or funded for it, and what
the goals of conservation are. While federal funding initiatives leverage the reconciliatory
potential of IPCAs, many Indigenous Nations are wary of state reconciliation efforts. A former
Chief of Xeni Gwet’in First Nation explains,

Reconciliation is one of those dirty words that the government throws around just like
sustainability. They take it and they dirty it. They suck all the life out of it. So, you know,
our responsibility is to pull the life into these processes, whether it's reconciliation or
otherwise, right? Every relationship that we have is a part of building that reconciliation.
(Baptiste, 2020, interview)

As discussed, reconciliation—particularly when interpreted as an end state rather than a
process—is premature in the face of ongoing harm. Yet, sustained acts of meaningful
reconciliation can contribute to a longer, dedicated process of settler redress and reconciliation
with Indigenous Peoples and our shared lands and waters. A former Chief of Yunesit’in
Government contends that reconciliation requires an acknowledgement that “we never
relinquished our responsibilities and rights to this land and that the true reconciliation is really
going to be on the state to redefine their relationship with Indigenous people and their values and
aspirations” (Myers Ross, 2020, interview). While sovereignty and jurisdiction are contested in
Canada by Indigenous Nations and Crown governments, IPCAs can be “Section 35 innovations”
that animate the clause (Section 35(1)) of the Canadian Constitution that is widely interpreted as
enshrining the inherent right to Indigenous self-government (ICE, 2018, p. 79).

When Indigenous Nations invite reconciliation or partnerships with state and non-state
actors, this is a generous opportunity that—if Canadians are serious about reconciliation—
requires appropriate, meaningful, and timely actions. As ICE (2018) describes, there are three
dimensions of relationships that can be reconciled through IPCAs: Crown-Indigenous relations,
inter-societal relations (among and between Indigenous Nations and Canadian society), and
interspecies relations (human-environment). Another way of putting interspecies reconciliation is
“living on respectful and reciprocal terms with all of Creation” (McGregor, 2018a, p. 225).

Reconciliation through IPCAs necessitates broad actions of support (e.g. policy and legislative
changes) as well as site-specific support as articulated by the lead Nations of each IPCA. As a
first step, reconciliation involves listening to what Indigenous Nations are articulating as the
barriers, frustrations, and paradoxes they face as they establish and care for their IPCAs and the
Reconciliation efforts by Crown governments and agencies in support of IPCAs require a reconfiguration of power relations combined with localized actions tailored to meet the needs of specific IPCA initiatives.

In their final report, ICE outlined 28 recommendations directed primarily to Crown governments, but also to NGOs and philanthropists, that provide an excellent guide for advancing reconciliation through IPCAs. The recommendations are varied and include support for conservation-based Indigenous economies, redress for historical grievances pertaining to parks and protected areas, efforts related to existing parks and protected areas, amendment or creation of new legislative tools and policies, holistic and integrated approaches, capacity building, and sustained funding. If fulfilled, these recommendations could facilitate systemic changes needed in conservation. In this vein, IPCAs have the potential to be “beacons of teachings” when they “serve as a forum for demonstrating how to live well and respect each other and the land” (ICE, 2018, p. 47). As Enns describes,

  IPCAs can be a place where…we can experiment with activities and thought exercises, planning processes and whatnot that embrace and strive to emulate best practices of those three dimensions [i.e. between settler and Indigenous peoples, among Indigenous Nations and communities, and between all peoples and the planet] of reconciliation. (2021, interview)

While reconciliation is increasingly mobilized in discussions of Indigenous-led conservation, for many Indigenous Nations reconciliation is not the primary motivator for establishing IPCAs. It is therefore important that non-Indigenous allies and IPCA enthusiasts not impose a reconciliation
agenda on IPCAs to advance their personal or organizational goals for equity, diversity, inclusion, and indigeneity. As part of a broader political and ecological project involving redress, restitution, and justice, Crown governments, the conservation sector, and industry can support the conditions that enable IPCAs based on existing guidance, frameworks, and legislation, requests from Indigenous Nations, and emerging academic and grey literature.

4.5 Roadblocks to Reconciliation Through IPCAs

IPCAs, as “living example[s] of reconciliation,” present opportunities for Crown governments, the conservation sector, industry, and the public to examine the tensions IPCAs are surfacing (ICE, 2018, p. 11). Building on earlier analyses and recommendations (e.g. Artelle et al., 2019, 2021; ICE, 2018; McDermott & Roth, Forthcoming; M’sɨt No’kmaq et al., 2021; Tran, Ban, et al., 2020; Tran, Neasloss, et al., 2020; Youdelis et al., 2021; Zurba et al., 2019), I examine some of the ways that IPCAs are hindered by industrial, legal, economic, relational and political challenges. Given the disruptive nature of IPCAs—challenging conservation norms, legal systems, worldviews, and hegemonic power relations—it is not surprising they are exposing ways that mainstream institutions and systems across a range of sectors need to adapt to be aligned ICE’s (2018) recommendations, as well as national and international frameworks, guidance, and agreements for reconciliation. Put simply, how Canadian society responds to IPCAs matters. As Métis/otipemisiw scholar Zoe Todd, describing the reverberations of colonialism across Canada, posits, “we can confront these [colonial] legacies with a great deal of love and accountability, and build processes and structures that are attentive to and accountable for the ongoing impacts of colonial rule” (2016, p. 15). Since reconciliation is an active and ongoing process, the impediments to IPCAs are opportunities for Crown governments, the conservation sector (including environmental organizations, practitioners, funders, and researchers), and industry to breathe life into reconciliation by changing mindsets, behaviours, practices, policies, and laws within our circles of influence. If instead we ignore these roadblocks—while simultaneously mobilizing reconciliation discourse—then we are performing “substance-free reconciliation” and missing critical opportunities for systemic change and relational repair (Jewell & Mosby, 2021, p. 10). As former ICE Co-Chair Danika Littlechild describes,
part of the challenge of reconciliation is it requires dynamic, continuous engagement with people who are being thoughtful, and considerate and respectful…We’re asking for systems change that is much bigger than placing recommendations within an established framework and saying ‘that’s good enough.’ (CRP, 2020)

In the following section I outline some of the core issues that must be addressed—in concert with the guidance of Indigenous Nations, communities, and organizations—in order for IPCAs to be pathways of reconciliation.

4.5.1 Resource Extraction

One of the main impediments to reconciliation through IPCAs is resource extraction over which Indigenous Nations often have little control. Many Nations establish IPCAs as a way of enacting responsibilities to their territories and future generations in the face of extractive capitalism (Youdelis et al., 2021). The visions being advanced through IPCAs are often in stark contrast to the development agendas of governments and industry that, for example, “threaten and destroy certain parts of our territory and leave us with something that we have no chance of surviving in the long run” (Myers Ross, 2020, interview). Some IPCAs include ecosystems devastated by decades or centuries of resource extraction and development (e.g. Grassy Narrows Indigenous Sovereignty and Protected Area, Treaty 3/Ontario). The cumulative and ongoing impacts of these developments can breach treaty rights as was found in the case of Blueberry River First Nations in Treaty 8 territory/B.C. (Yahey v. British Columbia, 2021). While the Yahey Decision led to a $65 million government settlement for Blueberry River First Nations, 195 out of 215 previously permitted or authorized oil and gas and forestry projects are going ahead (Province of B.C., 2021f). While the visions of many IPCAs include Indigenous-led economic growth and development, such as fostering conservation-based economies, they also embrace a long-term commitment to conservation (ICE, 2018). Jurisdictional tensions reveal the paradoxical nature of Crown support for IPCAs. Provinces, territories, and federal agencies allocate tenures and licenses that enable logging, mining, oil and gas and hydroelectric development, commercial fishing and fish farms, and associated roads and infrastructure. To reduce pressures on lands and “communities overwhelmed by development pressures” ICE
called for “cooling-off periods” where Crown governments pause development while Nations are planning and establishing IPCAs (2018, pp. 23, 55).101

Implementing interim protection and deferring or retiring tenures are critical measures needed to support many IPCAs. For example, Chief Councillor of Kitasoo Xai’xais Nation explains that Indigenous Nations require the cooperation of Crown governments to reduce the relentless industry referrals (i.e. from hydroelectric, fishing, forestry, and mining companies) that overwhelm many Nations (Neasloss, 2020, interview). However, Crown governments and industry are reticent to do so over fears of profit loss and possible lawsuits. Establishing IPCAs can require significant time as Nations engage their citizens, develop their vision and governance model, fundraise, and in some cases build partnerships. Without cooling-off periods, the values, relationships, species, and ecosystems central to an IPCA could be irreparably damaged by ongoing resource extraction and development. In the absence of interim protection, Crown governments may fail to uphold their legal obligations to protect Aboriginal and treaty rights while ignoring their own frameworks for reconciliation that include free, prior and informed consent and respect for Indigenous self-governance.

While interim protection measures have directly supported the establishment of IPCAs in some Canadian jurisdictions, they are not the norm. For example, federal and territorial/NWT land withdrawals prevented mining and development over a 33,000 km² area while processes leading to the establishment of Thaidene Nëné (Treaty 8/NWT) were underway. Meanwhile, in Ktunaxa territory/B.C., the development rights and tenures associated with a proposed ski resort were permanently extinguished (and the proponent’s legal challenges dropped), with a $16.2 million contribution from the Government of Canada and $5 million from philanthropic sources (Nature Conservancy Canada, 2022). This buy-out has enabled Ktunaxa Nation Council to advance Qat’muk Tribal Park. In both instances, favourable political circumstances supported these land withdrawals and tenure purchases, which in turn enabled the establishment of IPCAs that otherwise would have been irrevocably altered by development. Yet land withdrawals and tenure deferrals or buy-outs can be politically risky and costly. Taxpayers may not support

101 For Nations with impacted territories, IPCAs can be “restoration areas” where healing the land is a priority (ICE, 2018, p. 48). Actuating this vision requires the cooperation of Crown governments and corporations with existing or proposed operations in their territories. This approach differs from mainstream parks and protected areas that prioritize the protection of intact landscapes.
expensive tenure buy-outs, while the fear of litigation by corporations is well founded, for example given the litigious behaviour of some mining companies in Tsilhqot’in territory (Bhattacharyya, 2020, interview; Myers Ross, 2020, interview). In other instances, Crown governments may want to support an IPCA but face institutional constraints that limit creative solutions. Team Coordinator-Community Outreach for Dasiqox Nexwagwež?an describes how some provincial staff have said that although they support the Tribal Park they “have to answer through their government system” (William, 2020, interview). These institutional constraints point to the need to address the underlying conditions that perpetuate jurisdical and industrial conflicts that impede IPCAs.

Supporting IPCAs involves shifting normative understandings about economic growth and development that underpin resource development pressures. At least on smaller scales, some IPCAs are demonstrating how local, ecologically respectful economies can go together with environmental and community well-being. For example, Kitasoo Xai’xais Nation has developed a successful conservation-based ecotourism venture, the “Spirit Bear Lodge” that has supported local economic development, conservation, and cultural revitalization (Spirit Bear Lodge, 2022). In this way IPCAs can be “beacons of teachings” modelling alternatives to a capitalist growth paradigm that externalizes environmental damage and breaches Aboriginal and treaty rights (ICE, 2018, p. 47). UNDRIP contains numerous articles that declare Indigenous Peoples have rights to development (i.e. Articles 3, 20, 23, 26, 32) and self-government (i.e. Article 4), the latter of which is also enshrined in Section 35 of the Canadian Constitution. As former Team Coordinator for Dasiqox Nexwagwež?an Jenna Dunsby describes,

Dasiqox [Nexwagwež?an] challenges the current economic system, which is a much larger question than how it fits into existing provincial legislation. Because Western law and legislation promotes a certain kind of economic system, one that the communities are working to transform (2020, interview).

Yet, change is slow. Despite B.C. and Canada having signed a reconciliation agreement in 2019 with Tsilhqot’in communities,

there's still mining exploration in Dasiqox Nexwagwež?an. There's still a proposed mine. There's proposed logging. I think B.C. and Canada are trying to work with the Nation on all that. But they're not removing any mining claims, they're not removing any logging
cutblocks. What they're saying is, let's sit down and work together under their laws and orders and that's what we're trying to change (William, 2020, interview).

Although a 2020 court ruling halted the mining project Tsilhqot’in communities had been fighting for over 30 years, the mineral tenures were not extinguished. Thus, the same, or a different, company could propose a new mine triggering another environmental assessment that could lead to a mine being constructed and operated in Dasiqox Nexwagweʔan (Youdelis et al., 2021). The laws, regulatory process, and tenure system that enable this economic paradigm—seemingly without regard for FPIC—exemplify the roadblocks many IPCAs are revealing. While addressing these issues at a systemic level is challenging, not doing so undermines reconciliation efforts. As the TRC declared, “the ultimate objective must be to transform our country and restore mutual respect between peoples and nations” (2015, p. 183).

4.5.2 Law and Legislation

Despite the impetus for reconciliation between Crown and Indigenous legal systems, Nations exercising Indigenous law are often ignored or face backlash. Indigenous law pre-existed Canadian law by millennia and has a proven track record in conservation102 (Clogg et al., 2016) yet it is neither widely understood nor afforded the same weight as Canadian law. Crown governments, industry, and the conservation sector routinely discount Indigenous law. This behaviour is out of step with a growing recognition of the need for Crown governments to acknowledge the sovereignty of Indigenous Nations and their legal traditions (e.g. CIRNAC, 2019; Department of Justice Canada, 2018; TRC, 2015; UN General Assembly, 2007) as well as impetus for legal reform (i.e. UNDRIP implementation legislation for Canada and B.C.). However, legal innovations have been slow (Jewell & Mosby, 2021; see also Chapter 5).

Currently, Indigenous Peoples cannot enact their responsibilities to their territories under their own legal systems, or enforce their laws on settler society, without fear of repercussions. For example, when members of Kitasoo Xai’Xais Nation enacted Kitasoo Xai’xais law to protect critical food sources (herring and crab) in their territory in coastal B.C.—and potential site of a

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102 Clogg et al. (2016) argue that Indigenous Peoples shaped ecological conditions through the application of Indigenous law which informed environmental management. Drawing on N. J. Turner et al. (2000) and Lee (2012), they contend that the ecological degradation of Indigenous territories is associated with the restriction or prohibition of Indigenous legal and governance systems.
future IPCA—they temporarily closed some areas to commercial fishing. As a result, the Nation’s initiative was undermined by Fisheries and Oceans Canada and the community received backlash from some commercial fishers (Neasloss, 2020, interview). As Kitasoo Xai’xais’ legal advisor points out, “There is no reconciliation between the two legal systems. And as a result, there’s uncertainty” for commercial fishers and other businesses and interests wishing to operate in the territory (Harrison, 2020, interview). Despite these legal tensions, Nations are pursuing innovative legal approaches to IPCAs and guardianship and continue to exercise Indigenous law.

IPCAs established and governed under Indigenous law alone may be vulnerable to unwanted resource extraction and development. Tla-o-qui-aht Nation has developed Tla-o-qui-aht Tribal Parks with relative success in Tla-o-qui-aht territory/B.C., which includes a UNESCO Biosphere Reserve, a popular National Park Reserve, and a world class tourist destination (in large part due to Tla-o-qui-aht Nation’s leadership and stewardship over millennia). However, Nations with less locational privilege, or without territories implicated in globally renowned environmental activism, have encountered different challenges. For the Tsilhqot’in, Dasiqox Nexwagweź’an “is about setting down our laws of the land and water for our peoples' use, and the future sustainability for our generations to come”103 (Baptiste, 2020, interview). Yet, in Tsilhqot’in territory, including Dasiqox Nexwagweź’an, Crown governments have not recognized Tsilhqot’in law. Therefore, Tsilhqot’in communities have had to contend with unwanted mineral exploration and a proposed open pit mine104 (Youdelis et al., 2021). While Dasiqox Nexwagweź’an could be a pathway for reconciliation with Canada and B.C., it would require the Crown to “dismantle parts of their laws in order to accommodate [the Tsilhqot’in],” something that has yet to occur (Myers Ross, 2020, interview). Similar challenges exist in other IPCAs where Nations lack legislative tools to prevent resource extraction and industrial encroachment in their territories. This points to the legal authority of Crown governments—

103 Baptiste explains that when Indigenous Peoples are speaking about the “land” they are referring to it inclusively to include water and everything (2020, interview).
104 Two unprecedented federal environmental review processes concluded the proposed mine could not go ahead (in 2010 and 2014). However, Taseko Mines proceeded with extensive exploration activities under provincial permits despite the lack of federal approval to actually build the mine and Tsilhqot’in opposition which included legal action and blockades (Townsend et al, 2019; Youdelis et al, 2021). Baptiste maintains that “this was simply a waste of resources, time and energy to appease a mining company and the provincial government’s interests” (2020, interview).
enabled by federal, provincial, and territorial laws—to allocate tenures and licenses to commercial operators that threaten the future of many IPCAs. As a result, some Nations end up in costly court challenges and active resistance such as blockades as a last resort to protect their territories. These reactive tactics divert time and resources away from Indigenous Nations trying to develop their IPCA initiatives (Youdelis et al., 2021).

Indigenous Nations wishing to secure Crown protection for their IPCAs may encounter inadequate legislative tools and protected area designations. Outside of the Province of Quebec, there is no legislation federally, provincially, or territorially that explicitly enables the establishment and protection of IPCAs. In the rest of Canada, Nations must use existing protected area legislation and designations such as provincial, territorial, and national parks, a problematic reality for many reasons. First, there are few legal triggers requiring Crown governments to consider the protected area proposals of Indigenous Nations wishing to secure Crown protection. Second, there is a lack of legal mechanisms to enable interim protection of proposed protected areas, leaving potential IPCAs vulnerable while negotiations are underway. Third, mainstream protected areas typically limit Indigenous governance to advisory roles while Ministers hold ultimate authority, even in co-management arrangements. Fourth, Canadian law situates most marine ecosystems and species under federal law while terrestrial environments fall under the jurisdiction of provinces and territories. This siloing creates additional bureaucratic and jurisdictional hurdles for Nations pursuing holistic approaches to conservation across their territories (ICE, 2018; M’sɨt No’kmaq et al., 2021). In short, legislation related to conservation was largely created without Indigenous input and has not been updated to reflect new guidance, principles, and frameworks that centre Indigenous rights, consent, and reconciliation. Consequently, Nations may not view Crown legislation as a complementary tool for protecting their IPCAs, while simultaneously encountering the limits of Indigenous law when settler society disregards it. While IPCAs do not require Crown protection, for those Nations desiring parallel Crown protection it would be beneficial if Crown governments amended or created new legislation in collaboration with Indigenous Peoples (ICE, 2018). While there are some promising co-governance frameworks derived from legally pluralistic approaches to IPCAs (e.g. Thaidene Néné in NWT), these are not widespread (see Chapter 5 for an in-depth discussion on law).
4.5.3 Financing

Since IPCAs generally operate outside the mainstream parks and protected areas system, financing is a ubiquitous challenge for Indigenous Nations who may expend considerable effort raising funds to develop their initiatives (ICE 2018). IPCAs require substantial and sustained investments for establishment as well as ongoing operations and management, including related programming and initiatives. Nations pursuing IPCAs are exploring diverse funding mechanisms including government and philanthropic grants (e.g. 52 Challenge Fund recipients and Dasiqox Nexwagweżʔan respectively), trust funds (e.g. Thaidene Nëné), carbon offsets (e.g. Coastal First Nations Great Bear Initiative), as well as allyship programs, ecotourism, and small-scale resource development such as run-of-river hydroelectric projects (e.g. Tla-o-qui-aht Tribal Parks). While there are examples of large endowment funds enabled by Indigenous, Crown and philanthropic contributions, these major investments are the exception. For example, Thaidene Nëné Fund was seeded with a $30 million philanthropic and federal investment. The fund supports Lutsel K’e Dene First Nation’s responsibilities for management and operations within Thaidene Nëné, with Parks Canada covering the annual shortfall of available trust fund income. There is also a perception that large Crown investments into IPCAs could hinge on an expectation of close partnerships with the Crown or co-governance, something not all Nations wish to pursue. Given the funding shortfall, some Nations wishing to establish or develop their IPCAs must pursue piecemeal funding opportunities. This effort diverts human resources to monitor and apply for opportunities which can require significant capacity and can be challenging for any fledging non-profit initiative. While the development of Indigenous-led carbon offsets as a financing mechanism has generated significant interest, it also comes with various obstacles and is not yet a readily accessible financing pathway (Townsend et al., 2020). Meanwhile, for Nations with territories impacted by resource extraction, ecotourism may not be a feasible source of income. Although government and philanthropic grants can significantly enable the establishment and stewardship of IPCAs, granting agencies must ensure their priorities do not override or subvert those of the Nations whom they support.

While federal funds have been an important source of revenue for Indigenous Nations pursuing IPCA establishment, Crown funding is discretionary and vulnerable to the election cycle. Since 2018 the Government of Canada has made unprecedented investments in
biodiversity conservation ($3.6 billion committed between 2018-2026), which includes funding for the establishment of new protected areas, Indigenous Guardians programs, and conservation partnerships (ECCC, 2022b). These investments are intended to support Canada’s goals of protecting 30% of its lands and freshwaters, and 30% of its oceans by 2030. The funding includes up to $340 million over five years (2021-2026) to support Indigenous-led conservation (ECCC, 2021b). To date, the federal government has funded 27 Indigenous communities for the creation of IPCAs across the country, and another 25 communities for activities that could lead to IPCAs (ECCC, 2021a). While Indigenous Nations do not need government endorsement or funding to establish IPCAs, these funds can be a critically important source of revenue. It is important that Nations are compensated for their stewardship initiatives, particularly if governments intend to count them towards state conservation targets. However, not all Indigenous-led conservation initiatives encompass activities that contribute to Canada’s area-based targets. Although the federal government is backing its support for IPCAs, provinces and territories generally have not prioritized investing in Indigenous-led conservation and IPCAs, for example arguing that they have already reached their conservation targets or that they do not have a mandate to support Indigenous-led conservation and IPCAs (Cox, 2020). This can lead to uncoordinated efforts, with the federal government signaling support for IPCAs while provinces and territories allocate tenures and licenses that threaten them. Further, while the current Liberal federal government is supportive of IPCAs and reconciliation, it is uncertain whether an incoming Conservative government (under whose previous leadership little progress was made on conservation) would be as supportive of conservation and IPCAs. Collectively these issues raise questions about the sustainability of Crown funding.

Crown funding could lead to an extension of state governance into Indigenous territories that undermines the (re)generative potential of IPCAs. In an effort to increase the number of hectares protected, governments may use IPCAs to meet their targets without doing the transformative work required to advance IPCAs “in the spirit and practice of reconciliation” (Pathway to Canada Target 1, n.d.). At best, Crown recognition and financial support of IPCAs are likely to have unintended consequences, and at worst they could undermine the Nations leading IPCAs. Because “…settler colonialism will always define the issues with a solution that retrenches its own power,” it is important to be vigilant about the possibility of Crown
governments mobilizing IPCAs to advance their own agendas while circumventing the kinds of
deep work that would advance transformative change in the conservation sector (L. B.
Simpson, 2017, p. 178). Since federal IPCA funding is currently administered through an
application model, Crown agencies play a prominent role vetting which IPCAs to fund. When
existing or proposed resource extraction and development activities conflict with the vision of
IPCA, it is unlikely these initiatives will be given priority funding, if funded at all. For example,
the Dasiqox Nexwagweʔan Initiative’s application for federal IPCA funding was reportedly
unsuccessful due to a significant mining interest within the IPCA (Bhattacharyya, 2020,
interview; Myers Ross, 2020, interview). One of the reasons Tsilhqot’in communities established
Dasiqox Nexwagweʔan was to extend Tsilhqot’in governance over a portion of their territory
threatened by the development of an open-pit mine where the Supreme Court of Canada did not
recognize Tsilhqot’in title. Although the Province of B.C. approved the mining proposal (despite
numerous court challenges launched by Tsilhqot’in communities), the federal government twice
rejected the project revealing conflicts of interests and divergent Crown positions. Despite
Crown governments having signed two reconciliation agreements with Tsilhqot’in communities,
the Province of B.C. prioritized industry’s interests over those of Tsilhqot’in Nation, while the
federal government elected not to fund their IPCA. While there have been a few examples of
government tenure buyouts to support IPCA creation, these are costly, typically require massive
philanthropic funding campaigns, and tend to be politically amenable and publicly palatable.
These tensions raise questions about the extent to which political recognitions and associated
state financing of IPCAs may be “salv[ing] the wounds of settler colonialism” through a
recognition process when a “politics of refusal” may be more generative for Indigenous Nations
pursuing resurgence through IPCAs105 (Coulthard, 2014; A. Simpson, 2014, p. 20; L. B.

105 Speaking about citizenship issues in a Mohawk and transboundary (Canada/U.S.A.) context, Audra
Simpson (Mohawk) asserts that, for the people of Kahnawà:ke, “their notion of nationhood is driven by
their refusal of recognition, their refusal to be enfolded into state logics, and their refusal, simply, to
disappear” (2014, p. 185). This line of inquiry is relevant to thinking about the conditions under which
Indigenous Nations may be under duress to engage with the Crown to fulfil their visions for IPCAs.
4.5.4 Relationships and Capacity

In order for IPCAs to be pathways of reconciliation, good relations must be forged between Crown governments and Indigenous Peoples, and between all peoples and the Earth (ICE, 2018). Following centuries of Euro-settler violence towards Indigenous Peoples, it will take significant redress and an ongoing commitment from Crown governments and settler organizations, institutions, corporations, and the public to build trust with many Indigenous Peoples. Where Nations invite partnerships with, or support from, Crown governments, the conservation sector, and industry to assist with their IPCAs, these are critical opportunities for advancing reconciliation. Building decolonial relations for reconciliation might entail actions such as eliminating bureaucratic inertia and onerous processes. For example, Kitasoo Xai’xais Nation worked on over 60 drafts of a management plan with the Province of B.C. and still could not secure measures to protect sensitive and sacred cultural sites in their territory (Chapter 5).

IPCAs have also revealed settler anxieties and racist attitudes among some neighbouring communities and governments over fears that IPCAs may be giving land back to Indigenous Peoples or presenting a barrier to settler ways of life and economies. For example, Dasiqox Nexwagwežʔan has at times faced fierce opposition and racist attitudes from some non-Indigenous area residents including the mayor of the nearest city as well as vandalism of infrastructure marking the entrance to Tsilhqot’in title lands (Bhattacharyya, 2020, interview; Dunsby 2020, interview; Lamb-Yorski, 2015, 2016). As Dunsby describes,

> I mean, there’s so much racism wrapped up in this idea of handing over “control.”

> Although it’s not about that, but I think that’s how people perceive it. I think the idea of Tsilhqot’in “control” on Tsilhqot’in territory is terrifying for a lot of people, because it is such a shift in settler relationships to land and means a lot of change. (2020, interview)

Public backlash against IPCAs reveals the need for inter-societal reconciliation at the individual/neighbour as well as systemic levels. Being multi-dimensional, reconciliation also extends to all relations, not just humans (McGregor, 2018a). Indigenous ontologies that foster reciprocity, balance, and abundance among humans and all species are not well reflected in Euro-settler society including mainstream conservation. This highlights the need for ontological flexibility to cultivate understandings of, and support for, IPCAs at a deeper level. These
relational dimensions of reconciliation require significant capacity to address, as do IPCA establishment and protection in general.

The impacts of “centuries of systemic imperialism” can manifest as capacity issues for some Indigenous Nations which may hinder IPCAs and potential partnerships (TRC, 2015, p. 385). IPCA establishment and ongoing care requires capacity for community engagement, planning and mapping, research and monitoring, stewardship, cultural expertise, and collaborative governance (ICE 2018). Capacity development requires funding just as fundraising requires capacity. In many co-management processes the playing field is not level, thus opportunities for influencing outcomes are unequally distributed. A former Chief of Xeni Gwet’in First Nation points out,

When we have no capacity it's very difficult for us to be able to work together with governments when they have lawyers, everybody under the sun working with them. And we have next to nobody, and we don't have that capacity. So how is it a fair process, right?106 (Baptiste, 2020, interview)

For reconciliation of Crown-Indigenous relations, at a bare minimum Crown governments and other actors must inform themselves about the perspectives, histories, and priorities of the Nations with whom they are collaborating or affecting. Indigenous Nations are experienced at working within Crown political systems and institutions of governance. However, “the balance is skewed” and “there’s some catching up to do before everybody moves forward together” even though there is potential for “knowledge sharing and collaboration to…support those Nations to manifest their way of stewarding that land” (Bhattacharyya 2020, interview).

It is incumbent on Crown governments, and other potential allies of IPCAs, to develop internal capacity to be effective and ethical partners while ensuring that Indigenous Nations have the necessary capacity to engage with them. Philanthropic and environmental organizations can support IPCAs by fundraising and leveraging support (ICE 2018). While there are many individuals within Crown agencies, conservation organizations, and corporations who are championing decolonial approaches and relational repair at the individual or departmental scales, broad systemic change is also needed. In addition to skill and capacity, advancing

106 Baptiste explains that by capacity she’s referring to the funds to hire Tsilhqot’in to be a part of their team (2020, interview).
reconciliation—and therefore transformative change—requires creativity, innovation, and risk taking among Crown governments, the conservation sector, industry, and settler society. IPCAs could support societal transformation by being “beacons of reconciliation” that increase “cultural competency” by Crown governments, non-Indigenous peoples, and institutions (ICE, 2018, p. 47).

Despite various federal initiatives intended to advance IPCAs and reconciliation, federal, provincial, and territorial governments face constraints that limit their support for IPCAs and their ability to be effective and ethical partners. Since reconciliation is at its heart relational, Crown governments must invest in building relationships at individual, agency, and institutional levels. This is especially the case given the turnover of government leaders, staff, and political parties. Nations must frequently start the relationship building process over with new contacts. The lack of continuity of Crown contacts can place undue burden on Indigenous Nations, many of whom are over-extended, to get new government officials briefed on their IPCA files (Bhattacharyya, 2020, interview). Because building trust takes time, sustained good will, and remedial and proactive actions, Crown staff turnover combined with lack of trust can be barriers to advancing Crown-Indigenous relationships. Simultaneously, Crown leaders and staff may be constrained in ways that prevent them from building relationships with communities over apprehensions about what could be construed as “consultation.” Since consultation is a formal legal process, it can come at the cost of informal and personal forms of relationship building. Systemic, legislative, and institutional changes require long-term effort typically well beyond the elected terms of Crown governments. As Kitasoo Xai’xais Nation’s legal advisor points out, …we hear a lot of great noises from the province and from Canada and it’s a matter of having those governments in power long enough to achieve these. Enacting or amending legislation takes a long time and so do these agreements (Harrison, 2020, interview).

At the core of many of the tensions IPCAs are illuminating are jurisdictional conflicts, something ICE identified as a core issue needing resolution if IPCAs are to be supported and advanced (ICE 2018).

4.5.5 Jurisdiction and Governance

At the heart of many challenges IPCAs are surfacing is the continuation of settler colonialism, as an ideology and structure, combined with failures to uphold treaty commitments
and resolve conflicts over untreatied lands. Since settler colonialism is founded on the expropriation of land and “a logic of elimination” (Wolfe, 2006, p. 387), IPCAs may be a form of “generative refusal” of Crown sovereignty and recognition as well as capitalist imperatives (L. B. Simpson, 2017, p. 9). For example, Dasiqox Nexwagweʔan was “born out of conflict; conflict to the land and who claims to own it” in a place where mining interests “threaten our own cultural integrity or our intention to live there for generations” (Myers Ross, 2020, interview). Yet, IPCAs, as well as Indigenous governance or strong co-governance models, could be a step “towards reconciliation of Crown and Indigenous title, which is really the root of everything in B.C.—unceded land” (Harrison, 2020, interview).

As discussed, tensions between IPCAs, resource extraction and development put reconciliation frameworks like UNDRIP—and its cornerstone principle of FPIC—to the test. In order to reconnect humanity to our natural world in a balanced way, Canada must cede “real jurisdiction to Indigenous peoples for this transformation” (Yellowhead Institute, 2019, p. 8). This means not obstructing, but rather including and deferring to Indigenous governance, jurisdiction, and authority. Despite having maps for how this could look, in Canada there has been widespread failure to fulfill and implement early treaties between settlers and Indigenous Peoples. Many of these treaties describe parallel governance systems and collective responsibilities to the Earth and all relations, such as the Kaswentha or Two Row Wampum, and the Dish with One Spoon Treaty (McDermott & Roth, Forthcoming; Reid et al., 2021). For some Indigenous Nations, establishing IPCAs can support the fulfilment of treaty obligations and impact benefit agreements. For example, the establishment of Thaidene Nëné supports the implementation of the Treaty of 1900 ((Treaty 8; Thaidene Nene, n.d.-d) and the establishment of Tallurutiup Imanga National Marine Conservation Area (Nunavut) is being co-established and co-governed by Qikiqtani Inuit Association and Parks Canada in compliance with the Nunavut Agreement and UNDRIP (Parks Canada, 2020; Qikiqtani Inuit Association, 2022). Crown governments and Canadians can uphold their responsibilities to the lands and waters by supporting Indigenous Nations who are declaring IPCAs.

IPCAs are challenging the Crown’s constant reassertion of its assumed authority which contradicts its own frameworks and principles for reconciliation including the recognition of Indigenous rights, legal systems, and self-governance. Indigenous Peoples often experience the
Crown’s unwillingness or lack of capacity to recognize the pre-existing and parallel authority and sovereignty of Indigenous governments. Yet, Indigenous Nations are empowered by their own laws to make decisions about their territories, a fundamental tenet upheld by UNDRIP, TRC Calls to Action, the Canadian Constitution, the Department of Justice Principles, and other policies. For example, “the Government of Canada recognizes that relations with Indigenous Peoples need to be based on the recognition and implementation of their right to self-determination, including the inherent right of self-government” (Department of Justice Canada, 2018, p. 5). For Kitasoo Xai’xais Nation, who is considering announcing IPCAs, reconciliation involves “…developing a model that includes First Nations in decision-making. It incorporates our own laws and our practices that protects our cultural sites…” (Neasloss, 2020, interview). Yet, as the Chief Councillor of Kitasoo Xai’xais Nation explains, “A response we are always getting from government is you cannot fetter the authority of a Minister, and I will tell them that you cannot fetter the authority of our Hereditary Chiefs as well” (Neasloss, 2020, interview).

This contradictory Crown behaviour—issuing statements, adopting policies, and implementing legislation that recognizes Indigenous governance, but not broadly and consistently enacting their own framework for reconciliation—reinforces a paternalistic dynamic.

Crown governments continue to assume a position of superiority by controlling decision making over Indigenous territories, in ways—as discussed—that can fundamentally alter possibilities for Indigenous self-governance and IPCAs. Despite the efforts of Crown governments to affect positive changes,

- they have certain agendas that they're not willing to give up. Especially decision making.
- They try to water down decision making in the end. They still want to make the final decision in parts of Tsilhqot’in territory not encompassed by the Title lands win.

(William, 2020, interview)

For reconciliation to occur, the Crown must “[transfer] the asserted Crown right to make decisions over these areas back to the Nation that never gave it up” (Harrison, 2020, interview).

“But whether they can transition into a supporting role, to me that's the ultimate act of reconciliation at a government level. Can you transition to a supporting role?” (Bhattacharyya, 2020, interview). IPCAs, as enactments of Indigenous law and governance, could be pathways of
reconciliation if Crown and other actors stop asserting their (often industrial) visions that conflict with the visions Nations hold for their territories and future generations.

4.6 Indigenous and Decolonial Futurities

For my kobade to survive and flourish the next four hundred years, we need to join together in a rebellion of love, persistence, commitment, and profound caring and create constellations of coresistance, working together toward a radical alternative present based on deep reciprocity and the gorgeous generative refusal of colonial recognition.

(L. B. Simpson, 2017, p. 9)

Futurity, or the notion of an imagined/imagineable future, is a useful and even subversive lens through which to examine how Indigenous Nations are challenging, both inadvertently and overtly, settler colonialism through IPCAs. They do so through the visions their IPCAs are intended to fulfill, thereby cultivating futures that colonialism attempts to foreclose. For the Tsilhqot’in, this is captured in the name of their IPCA, “Dasiqox Nexwagwežʔan,” where Dasiqox refers to the watershed and Nexwagwežʔan translates to “it is there for us.” The Dasiqox Nexwagwežʔan Initiative describes the Tsilhqot’in people’s “deep, rich relationship with our land that extends through the past, present and future” and is bringing about a time in which “Tsilhqot’in culture and language can thrive” (Dasiqox Tribal Park Initiative, 2021a).

Whereas mainstream conservation, arising from modernist and Eurocentric philosophies, reproduces settler-colonialism in various ways, IPCAs promote Indigenous continuity and resurgence, in conjunction with the well-being of the lands and waters. Yet, through various encounters with settler colonialism described above, IPCAs can be constrained by multiple obstacles that not only resist Indigenous and decolonial futurities, but consequently possibilities for reconciliation.

Colonialism is inextricably linked to modernity (Bhambra, 2014), which designates a rupture in time through which a number of binaries were emphasized along with moralizing judgements about them (Harding, 2008; Latour, 1993). The hallmarks of modernity include the

107 L.B. Simpson describes the Nishnaabeg word kobade as a “link in a chain—a link in the chain between generations, between nations, between states of being, between individuals” (2017, p. 9). She describes the Michi-Saagig Nishnaabeg Nation as “a hub of Nishnaabeg networks. It is a long kobade, cycling through time. It is a web of connections to each other, to the plant nations, the animal nations, the rivers and lakes, the cosmos, and our neighboring Indigenous nations” (L.B. Simpson, 2017, p. 9).
production of scientific rationality removed from the state, the separation of the public and private spheres, and European Enlightenment notions of development and progress, Western exceptionalism (e.g. the presumed superiority of Western science), and triumphalism (e.g. the success of scientific achievements), universalism, and benevolence (de Oliveira Andreotti et al., 2019; Harding, 2008). Some of the ontological separations modernity produced include humans/non-humans, male/female, modern/primitive, and so on. These categories reflect the prevailing views of European Enlightenment culture and its associated racial and gender biases. These binaries are in contrast to the heterogenous assemblages of multiple beings (humans and otherwise), or socio-material worlds, consistent with Indigenous ontologies that emphasize relationships, responsibilities, and reciprocity (Blaser, 2014).

Modernity’s influence remains prevalent in Canadian culture and mainstream conservation and, left unchecked, the mutually reinforcing ideologies of colonialism and modernity will continue to produce environmental approaches centred in Western scientific knowledge, technocratic managerialism, and increasingly neoliberalism. These approaches coalesce in mainstream parks and protected areas that reproduce human dominance over, and separation from, the environment, while displacing Indigenous Peoples and undermining their governance, knowledge, and legal systems. Modernity functions as a hegemonic and teleological project of human progress and development that, in the present, relies on the expansion of global capitalism. Vanessa De Oliveira Andreotti et al. (unmarked; 2019, p. 401) describe a pattern inherent to modernity that “reproduces a vicious circle where the logics of markets, borders, and seamless progress normalize colonial violences while concomitantly rendering unintelligible different possible articulations of well-being and prosperity.” This obfuscation of alternate futurities centred in different (i.e. Indigenous) epistemological and ontological frameworks is prevalent throughout Euro-Canadian society and manifests in mainstream conservation whose norms are consistent with modernist values. Simultaneously, if settler society does not dismantle the five major roadblocks to IPCAs described above, settler colonialism will persist in ways that counteract Indigenous and decolonial futurities, thereby foreclosing opportunities for reconciliation. As Whyte contends (2017, p. 207), “indigenous conservation approaches aim at negotiating settler colonialism as a form of human expansion that continues to inflict anthropogenic environmental change on indigenous peoples” in ways that signal a “dystopian
future.” While “the future is very often already present” (Baldwin, 2012, p. 174; emphasis original), I propose a non-deterministic approach to the future that is open to possibility and transformation.

IPCAs are not only challenging status quo conservation but also have the potential to interrupt settler colonialism since they contest the assumption of settler futurities, while advancing Indigenous futurities. As Glen Coulthard (Yellowknives Dene) and Leanne Simpson (Michi Saagiig Nishnaabeg) sum up, the settler colonial project in Canada is founded on “the dispossession of Indigenous bodies from Indigenous lands and by impeding and systemically regulating the generative relationships and practices that create and maintain Indigenous nationhoods, political practices, sovereignties, and solidarities” (2016, p. 254). A fundamental tenet of settler colonialism is settlers’ intent to stay in colonized territories by eradicating or assimilating Indigenous Peoples while appropriating lands and resources. The continued vibrancy, strength, and resilience of Indigenous Peoples in Turtle Island/Canada is in stark contrast to the colonial plan to “kill the Indian in the child” (TRC, 2015, p. 130). While many Nations do not frame their IPCAs as radical or resurgent initiatives, asserting, imagining, and securing Indigenous futurities is subversive to settler colonialism. As Indigenous-led governance initiatives in Indigenous territories, IPCAs encompass powerful visions for the continuity of Indigenous Peoples thriving in their territories for generations to come. As Chief Councillor of Kitasoo Xai’xais Nation explains, “there is a resurgence in First Nations right now. Our next generation is excited to uphold their ancestral stewardship responsibilities” (Neasloss, 2020, interview). While IPCAs may be a form of “generative refusal” rejecting state recognition or settler tolerance for multiculturalism and difference, they also hold the potential for nurturing decolonial relations (Coulthard & Simpson, 2016; A. Simpson, 2014; L. B. Simpson, 2017). Decolonization “requires the repatriation of Indigenous land and life” (Tuck & Yang, 2012, p. 21) which is commensurate with the purpose of IPCAs (ICE, 2018). However, it is not incumbent on Indigenous Nations advancing IPCAs to accommodate settler futurities or placate settler anxieties evoked by deep rooted expressions of Indigenous law and governance on the land.

If settler society can turn towards the discomfort that IPCAs can invoke, for example, by resolving the roadblocks discussed above, then a decolonial and ultimately reconciliatory
response could be cultivated in lieu of a retrenchment of colonial power relations. A decolonial response includes decentering settler normativity, whiteness, and capitalist imperatives while allowing Indigenous ontologies, or “grounded normativities,” to flourish\textsuperscript{108} (Coulthard & Simpson, 2016; L. B. Simpson, 2017). In the wake of centuries of colonial impacts, including relentless resource extraction, many Indigenous Nations have been constantly on the defensive, reacting to the agendas of settler and corporate interests affecting their lives and territories. As a former Chief of the Yunesit’in Government puts it, “We’ll let you in [to our territory] if we want to consent. And let us live and let us try to regain what we had here so we’re not constantly bombarded and taken off our direction” (Myers Ross, 2020, interview). Cultivating decolonial relations as the necessary precursor to reconciliation requires settlers being conscious of and addressing their feelings, not just as personal reactions, but as social responses endemic to settler colonialism and white privilege (see also Rice et al., 2022). Eva Mackey’s (2016) work examines the drive for settler certainty which encompasses settler “fantasies of entitlement” that propagate expectations of ongoing privilege (p. 9). “Settler states of feeling” include anger and fear in response to Indigenous Peoples’ reclaiming land, resisting development in their territories, or asserting rights (p. 17). These feelings have their genealogies in settler ontologies including private property and the construction of identities based on race and hierarchy. Mackey encourages settlers to “embrace unsettlement and disorientation as a difficult yet creative first step to engaging processes of imagining and putting into practice the making of a decolonized world” (p. 38). Eve Tuck (Unangax̂) and K. Wayne Yang (unmarked) point out, “decolonization is not accountable to settlers, or settler futurity. Decolonization is accountable to Indigenous sovereignty and futurity” (2012, p. 35). For reconciliation to stand a chance, settler society must work through the intentional amnesia of “settler ignorance,” and dismantle the ongoing structure of settler colonialism (Rice et al., 2022, p. 17). Otherwise, reconciliation looks a lot like “rescuing a settler future” (Tuck & Yang, 2012, p. 35).

\textsuperscript{108} Coulthard and L.B. Simpson define “grounded normativity” as the “ethical frameworks provided by these Indigenous place-based practices and associated forms of knowledge” that regenerate “practices and procedures, based on deep reciprocity, that are inherently informed by an intimate relationship to place.” (2016, p. 254).
2018; M’sɨt No’kmaq et al., 2021; TRC, 2015). For conservation to be reconciliatory a different mindset must be cultivated than the dominant logic that gives rise simultaneously to the commodification of the Earth and to parks and protected areas intended to ensure some portion of the planet does not become a sacrifice zone. This requires moving beyond the limitations of a worldview that views webs of reciprocal ecological relationships as natural resources for human consumption and profit. In this expansive view of intersocietal and interspecies reconciliation we can locate the possibility for decolonial futurities that embrace relational accountability and non-dominance as guiding principles—wisdom contained in many Indigenous ontologies. Coulthard (2014, p. 13; emphasis original) describes Indigenous anticolonialism as being “deeply informed by what the land as system of reciprocal relations and obligations can teach us about living our lives in relation to one another and the natural world in nondominating and nonexploitative terms.” If, through various circumstances and maneuvers, Crown governments and settler society appropriate Indigenous resurgence or undermine Indigenous governance and self-determination, IPCAs could be instrumentalized as hollow metaphors for reconciliation. For example, non-Indigenous interests may capitalize on IPCAs to further their own goals such as creating conditions of greater economic certainty, promoting the optics of reconciliation for personal or institutional gain, and fulfilling mandates external to the visions Nations are advancing. Like processes of greenwashing, IPCAs could become associated with the agendas of Crown governments, industry, and other actors thereby eroding the generative and disruptive basis of IPCAs. If this happens not only will opportunities for reconciliation be foreclosed, but opportunities for Indigenous Peoples to secure abundant futures could be compromised along with relations of co-existence in balance with the Earth.

4.7 Conclusion

Reconciliation rhetoric can sound and feel good to the beneficiaries of colonization, particularly those who wish to relieve their guilt or exercise their benevolence—but what is being, or could be, reconciled through conservation? IPCAs are more than Indigenous-led protected areas. They may be generative expressions of refusal, visions of Indigenous futurities, and commitments to uphold responsibilities to the lands, waters, and past and future generations. These disruptions to status quo resource extraction, development agendas, and mainstream
conservation challenge settler ontologies. IPCAs are as diverse as the Nations establishing them, which is part of their allure. Though IPCAs have been garnering increasing attention and funding in recent years, Indigenous stewardship, law, and governance pre-exist conservation targets and reconciliation mandates. Despite Canada/Canadians having various frameworks and processes for relational repair and restitution in place, progress on reconciliation has been slow. Reconciliation has been commodified, diluted, and coopted in various ways in Canada that limit possibilities for advancing just and reciprocal relationships among settler society, Indigenous Peoples, and the planet. When IPCAs invoke settler anxieties by challenging the assumption of ongoing privilege and access to lands and resources, these are fruitful opportunities pointing to the need for settler work at the individual and collective level—without placing the burden on Indigenous Peoples to help. The onus for reconciliation is squarely on the shoulders of white settler society and there are plenty of opportunities to do so in the conservation sector and Canadian society at large. With ICE’s recommendations as the signposts, and by responding effectively to Indigenous requests for support, settler society can work to dismantle some of the barriers facing IPCAs.

In examining the potential of IPCAs to be pathways of reconciliation it is useful to think of them as processes illuminating practical, systemic, and philosophical impediments to, and therefore opportunities for, advancing decolonial relations among Indigenous and settler populations and with the Earth. Prominent roadblocks are related to resource extraction which threatens the premise of many future and existing IPCAs. Canadian law and policy enable the very resource extraction that threatens many IPCAs while Indigenous law is ignored or challenged by Crown governments and industry therefore leaving many IPCAs vulnerable. A lack of IPCA specific legislation can be limiting for Nations pursuing a hybrid approach to protecting their IPCAs under Indigenous and Canadian law. Financing is a challenge for many Indigenous Nations while funders could undermine IPCAs by asserting an array of influences. All of these risks are exacerbated by capacity issues that many Nations face in the wake of colonialism. Meanwhile, Crown governments face institutional constraints that can limit their ability to advance decolonial relations. A crosscutting tension throughout these roadblocks are jurisdictional and governance challenges that stem from assumed Crown sovereignty over pre-existing, and persisting, Indigenous sovereignties. How settler society responds to these
interconnected challenges matters deeply to the project of reconciliation as a healing and restorative process as well as to our collective and intertwined ecological futures. If these roadblocks are ignored, and ICE’s recommendations supported only when convenient, then we will have missed fruitful opportunities for reconciliation in the conservation sector and Canadian society at large. If instead we approach the challenges IPCAs are illuminating as catalysts for transformative change then IPCAs may indeed function as pathways of reconciliation. By making space for Indigenous and decolonial futurities to flourish through IPCAs, we may all have an opportunity to be enriched by the beacons of teachings they are.
Legal innovations support Indigenous Protected and Conserved Areas: Examples from Canada and Aotearoa New Zealand

Abstract
The Province of British Columbia (B.C.), like most jurisdictions in Canada, currently lacks a proactive policy and legal framework that recognizes and supports the establishment of Indigenous Protected and Conserved Areas (IPCAs) by Indigenous Nations and communities in Turtle Island/Canada. Indigenous Nations have inherent authority to establish IPCAs under Indigenous laws; however, without additional protection afforded by Crown policy and legislation, IPCAs can be vulnerable to resource extraction and development. Indigenous Nations who are establishing and governing IPCAs in B.C. have faced multiple legal challenges. To overcome some of the limitations of existing protected area legislation, some Indigenous Nations in B.C. and Canada have pursued a multiple designation approach that uses Indigenous legal orders to establish IPCAs and Crown legislation to establish Crown protected areas. Together, these designations can be mobilized to advance legally pluralistic approaches and strong co-governance models. I investigate two recent protected area acts that have been used to advance IPCAs and innovative co-governance models: the 2019 Northwest Territories Protected Areas Act (Canada) and the 2014 Te Urewera Act (Aotearoa New Zealand). This analysis reveals that establishing new, or amending existing, legislation in Canadian jurisdictions like B.C. to support IPCAs is feasible, can support Indigenous jurisdiction and governance, and could contribute to broader goals of reconciliation in the areas of conservation and law by advancing legally pluralistic approaches.
5.1 Introduction

Since 2018, the number of Indigenous Nations and communities\(^\text{109}\) establishing Indigenous Protected and Conserved Areas (IPCAs) in Canada has surged. As the Government of Canada attempts to meet its terrestrial and marine protected area targets under the Convention on Biological Diversity (CBD), it sees IPCAs as a major pathway by which to establish new protected areas to help meet international and domestic area-based conservation targets (CBD, 2021; ECCC, 2021c).\(^\text{110}\) Canada frames its efforts to support Indigenous-led conservation, including IPCAs and Guardian initiatives, as part of broader mandate to advance reconciliation with Indigenous Peoples in Canada (ECCC, 2020a). The Indigenous Circle of Experts (ICE) popularized the term “IPCA” in their final report to the Government of Canada which culminated in 28 recommendations primarily targeting federal, provincial, and territorial (i.e. “Crown”) agencies.\(^\text{111}\) An independent body composed primarily of Indigenous leaders from territories across the country, ICE’s mandate was to advise the Government of Canada on opportunities for expanding protected areas across the country while advancing reconciliation between Indigenous Peoples and Crown governments, and among all peoples and our lands and waters.\(^\text{112}\) While ICE focused on IPCAs as a key strategy for meeting these objectives, Indigenous-led conservation is not a new phenomenon. Indigenous Peoples in Canada have been upholding reciprocal relationships of responsibility with their territories for millennia (Clogg et al., 2016; Dick et al.,

\(^{109}\) Henceforth, I refer to “Indigenous Nations” in an encompassing way that includes Indigenous Nations, communities, and governments across Turtle Island/Canada. While the term “Indigenous” is inclusive of First Nations, Métis, and Inuit, I note that some Inuit and Métis communities prefer language that reflects a distinction-based approach (i.e. not being lumped into “Indigenous Nations/Peoples). When referring to specific Indigenous Nations I adopt their preferred naming conventions where known (e.g. “Tsilhqot’in communities” to refer to the six First Nations that make up the Tsilhqot’in Nation).

\(^{110}\) Indigenous Nations do not require state recognition or funding to establish IPCAs and not all Indigenous Nations who apply for federal funding receive it.

\(^{111}\) IPCAs include tribal parks, community conserved areas, and Indigenous Protected Areas (IPAs) and other names specific to the Nations establishing them. Some Indigenous-led conservation initiatives focus on revitalizing relationships and cultural practices with their territories in ways that do not establish a bounded area and as such may not use the term IPCA, or another associated term.

\(^{112}\) ICE’s work significantly contributed to the federal initiative, “Canada Pathway to Target 1,” to meet the Government of Canada’s 2020 biodiversity conservation targets under the CBD (Pathway to Canada Target 1, n.d.). While Canada, and its provinces and territories, made substantial progress they did not meet these targets. Meanwhile, many provinces and territories maintain these national targets do not apply to them, but rather to Canada as a whole (Cox, 2020; Wood, 2021).
2022). IPCAs encompass a diversity of Indigenous-led conservation initiatives that reflect the priorities of the Indigenous Nations advancing them (Tran, Ban, et al., 2020).

In their final report, ICE declared “IPCAs are lands and waters where Indigenous governments have the primary role in protecting and conserving ecosystems through Indigenous laws, governance and knowledge systems” (2018, p. 5, emphasis added). Increasingly, Indigenous Nations are declaring IPCAs as part of their responsibilities to care for their territories and communities, including their human and non-human relatives, for future generations. As the Chief Councillor of the Kitasoo Xai’xais Nation in British Columbia (B.C.) says, “Our territory takes care of us, and in return, we are obligated by our laws to take care of our territory. We have a hereditary responsibility to manage and steward our territory for the benefit of future generations” (Neasloss, interview 2020). This responsibilities-based approach is informed by a conservation philosophy that sees people as integral to healthy ecosystems.

IPCAs range in size, scope, and purpose, and often include socio-economic, cultural, political, as well as ecological motivations (Tran, Ban, et al., 2020). These motivations may include language revitalization; developing conservation-based economies; protecting important species, places and relationships; reconnection and healing; and increasing food security (ICE, 2018). A literature review of IPCAs globally revealed a myriad of benefits resulting from their establishment. These include increasing landscape connectivity and creating refuges for endangered species, generating employment for Indigenous Peoples, protecting cultural heritage, minimizing conflict among land user groups, and promoting Indigenous governance, partnerships and shared decision-making (Tran, Ban, et al., 2020). The beneficiaries of IPCAs, ICE describes, “are our future generations, all living beings on Mother Earth, and the spirit of place found in every protected and conserved area” (2018, p. 6). IPCAs centre Indigenous jurisdiction and governance, upheld by Indigenous laws, regardless of whether Indigenous Nations elect to partner with Crown agencies or other organizations. Because IPCAs have a different emphasis than mainstream parks and protected areas, they are often not well served by, and present challenges to, existing legal frameworks and legislation. These tensions present opportunities for legal innovations in Canada.

113 Pronounced “KI-ta-soo Hay hays”
Outside of the Provinces of Quebec and Manitoba, no legislation in Canada explicitly enables the designation, recognition, and protection of IPCAs, and it is unclear how effective the legislation in Quebec and Manitoba are from Indigenous perspectives.\textsuperscript{114} It is possible new federal legislation enabling IPCAs could be enacted in the future, but for now Indigenous Nations in most jurisdictions must creatively use existing legislative tools and pathways if they wish to leverage Crown protection. The lack of IPCA-specific Crown legislation that could add additional layers of protection to IPCAs designated under Indigenous laws raises the question: how can the long-term protection of IPCAs be ensured while also guaranteeing they are—and remain—Indigenous-led and grounded in Indigenous governance and law? To explore this question, I analyze relatively new legislation from the Northwest Territories (NWT), Canada, and Aotearoa New Zealand to explore how they have enabled, and potentially constrained, Indigenous-led conservation in Thaidene Nëné\textsuperscript{115} (Canada) and Te Urewera\textsuperscript{116} (Aotearoa New Zealand). I then explore the potential of cultivating legal pluralism in B.C. to support the establishment and protection of IPCAs and contribute to Crown governments’ reconciliation efforts.

While Indigenous Nations across the country have recently established, or are considering establishing, IPCAs, there is a high concentration of IPCAs in B.C., which is where the IPCA concept first emerged. In 1984, Tla-o-qui-aht Nation off the west coast of Vancouver Island declared Wah-nah-juss Hilth-hoois (Meares Island) Tribal Park, followed by the Haida Nation who established a Haida Heritage Site on Haida Gwaii in 1985.\textsuperscript{117} In 2014, the Tsilhqot’in

\textsuperscript{114} In 2021, the Province of Quebec amended its Natural Heritage Conservation Act to include a new category of protected area called (in English) “Aboriginal-led protected areas,” although none have been designated to date. The Province of Manitoba amended its \textit{Provincial Parks Act} in 2014 to enable Indigenous Peoples to propose the protection of significant traditional use areas as “Indigenous Traditional Use Parks” and “Indigenous heritage land use” sites. These designations are part of Manitoba Parks’ strategy to engage Indigenous Peoples including in co-management. Information is not readily available about how many Indigenous Traditional Use Parks are designated in Manitoba other than Chitek Lake Anishinaabe Provincial Park which is co-managed (Province of Manitoba, n.d.).

\textsuperscript{115} Pronounced THIGH-den-nay NEN-ay.

\textsuperscript{116} Pronounced TAY-oo-ree-wehra.

\textsuperscript{117} In subsequent years, the Nation declared an additional three Tribal Parks. Collectively the four Tribal Parks encompass all of Tla-o-qui-aht Nation’s territory, including the municipality of Tofino. The Haida Heritage Site on Moresby Island eventually became incorporated into Gwaii Haanas National Park Reserve and Haida Heritage Site, which is jointly governed by the Council of the Haida Nation and Parks Canada.
communities of Xeni Gwet’in and Yunesit’in announced Dasiqox Tribal Park (now called Dasiqox Nexwagweʔan IPA). Since then, at least seven other First Nations have also declared IPCAs in the province, and earlier this year a coalition established the first IPCA Innovation Centre in Tla-o-qui-aht territory (Tofino, B.C.) to support the expansion of IPCAs across the province. While B.C. has been a site of innovation in Canada for IPCA development, in part due to its unique political and historical context which includes few historical treaties, Indigenous Nations still encounter a number of legal and political challenges when protecting and governing their territories. Yet, B.C.’s adoption of provincial legislation in 2019 to support the implementation of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) provides legal impetus to overcome these challenges and could catalyze legal innovations and leadership among Indigenous Nations and the province that could instigate other jurisdictions to follow suit. For these reasons, I focus my analysis on the B.C. context and examine the legal challenges many Indigenous Nations face when establishing and governing their IPCAs. Although many of these legal challenges are generalizable across Canada, given that the historical, legal, and political contexts vary among Canada’s provinces and territories there may be other unique challenges characteristic of different jurisdictions in Canada.

I conducted this research in collaboration with the Kitasoo Xai’xais Stewardship Authority (KXSA), who supports Kitasoo Xai’xais Nation with stewardship and environmental governance. Kitasoo Xai’Xais Nation is experienced with the shortcoming of mainstream protected areas in their territory on the central coast of B.C.. This includes their involvement with conservancies, which in their experience have fallen short of the designation’s intent to support First Nations social, ceremonial and cultural uses, and ecological values and enable co-management. Kitasoo Xai’xais Nation, who recently declared a marine protected area (MPA) in their territory (i.e. a marine IPCA, Gitdisdzu Lugyeks MPA), is in early discussions with the

118 The Pacific IPCA Innovation Centre will be one of several regional knowledge hubs established across the country that bridges Indigenous knowledge and Western science to support the advancement of IPCAs. IPCAs in B.C. include Gitdisdzu Lugyeks (Kitsa Bay) Marine Protected Area (Kitasoo Xai’xais Nation), Qat’muk IPA (Ktunaxa Nation), Tahlta IPCAs (Tahltan Nation), K’ih tsaaʔdze Tribal Park (Doig River First Nation), and Dene K’ēh Kusān (Kaska Dene), Gwaxdlala/Nalaxdlala IPA (Mamalilikulla First Nation), and Ha Nii Tokxw IPA (Gitanyow Nation). Other Indigenous Nations exploring IPCAs include Taku River Tlingit First Nation and T’Sou-ke Nation.
Province of B.C. about developing IPCA legislation in the Great Bear Rainforest (B.C.’s central/north coast). KXSA is exploring different legal approaches and legislation they could use as they advance Indigenous-led protected areas in their territories. In doing so, they identified an interest in understanding the supportive aspects of the Northwest Territories’ (NWT) Protected Areas Act (2019) and Aotearoa New Zealand’s Te Urewera Act 2014 that could inform new or amended legislation in B.C.. The NWT’s act was one of the enabling pieces of legislation used to establish Thaidene Nëné, a large IPCA in the NWT with a strong co-governance arrangement. Meanwhile, the act from Aotearoa New Zealand is an internationally renowned example of innovative legislation that dissolved a national park through a legal personhood approach that vested guardianship to local Māori.

This study is not a comprehensive review of the adequacy of existing legislative tools across jurisdictions in Turtle Island/Canada\textsuperscript{119} to advance IPCAs, but rather an illustrative study that highlights successes from two examples nationally and internationally, which have relevance for Indigenous Nations, Crown governments, and the conservation sector working across the country. These insights may also be helpful in an international context of Indigenous-led conservation. As ICE (2018, p. 34) has pointed out, nationwide there are over 77 different types of protected areas enabled by 55 unique pieces of legislation. I argue that legislative innovations are needed in Turtle Island/Canada to be in step with guidance, frameworks, and policies that support Indigenous-led conservation, self-determination, and reconciliation. Yet not only are legislative changes needed. I contend that part of the transformation needed in conservation is an appreciation of Indigenous legal orders—which are as credible, legitimate, and as relevant as Crown law—in the spirit of legal pluralism and reconciliation.

\textsuperscript{119} In an effort to decolonize language and geographical place names I use the name of the Indigenous territory or treaty number first followed by the English name. Turtle Island is often used to refer to North America, thus, when referring to Turtle Island I specify whether I mean North America or Canada. The name Turtle Island originates from a creation story about Sky Woman who falls from the sky and is offered sanctuary on a turtle’s back upon which the world is built. This story originates from Anishinaabe and Haudenosaunee peoples of the Great Lakes. While Turtle Island is not a pan-Indigenous name for North America or Canada (a multitude or creation stories exist throughout Turtle Island) it is quite widely used, including in some conservation circles. I use it here to challenge the primacy of the Canadian state as the supposedly undisputed sovereign Nation with sole authority to govern the lands and waters that came to be known as Canada.
I begin with contextualizing legal tensions in conservation and the legal impetus to support Indigenous-led conservation. Following this I discuss my research partnership with KXSA and my methods before moving onto an analysis of the NWT’s Protected Areas Act and Aotearoa New Zealand’s Te Urewera Act, 2014. I focus on the supportive features of both acts and use examples from Thaidene Nënë and Te Urewera to show how the legislation has been used to advance Indigenous-led conservation, legal pluralism, and co-governance. I expand on the theme of legal pluralism in the final section where I argue that this mindset and approach could be a remedy to some of the challenges Kitasoo Xai’xais Nation, and likely many other Indigenous Nations across the country, have encountered as they uphold their responsibilities to their territories. The tensions running through conservation, jurisdiction, and law, and possibilities for cultivating legal pluralism and advancing reconciliation are not unique to Turtle Island/Canada. As such, the findings may be of interest internationally, and especially in Commonwealth countries, where IPCAs and Indigenous-led conservation are gaining momentum due to global conservation policies such as the CBD targets (CBD, 2020b, 2021). Like Indigenous Peoples in Turtle Island/Canada, the Māori of Aotearoa New Zealand are also advancing Māori governance, challenging mainstream conservation and legal conventions, and engaging with the state in efforts of redress and reconciliation

5.1.1 Legal tensions in conservation

Law is a contested aspect of conservation that draws on various understandings about humanity’s place in the natural world leading to normative claims and codes of conduct. Indigenous Nations give legal effect to their IPCAs through Indigenous laws and legal orders. Indigenous legal orders, which pre-exist Crown law, are produced and reinforced through social, economic, political and spiritual customs and circumstances, as opposed to through a centralized legal institution such as Canadian civil and common law (Napoleon, 2007). Indigenous legal traditions are rich and diverse, and “there is no such thing as a pan-Indigenous law” (Webber et al., 2020, p. 847). Indigenous law is enduring, adaptive, dynamic, and deliberative (McKerracher, 2021). As Gordon Christie (Inupiat/Inuvialuit) describes, “Indigenous law

\[\text{120 I follow Max Liboiron’s (Red River Mëtis/Michif/Treaty 6 territory) guidance on naming practices when referring to and situating authors (2021, pp. 3–4). The first time I introduce an author in a chapter I}\]
refers to the authority of particular Indigenous communities, tied to particular lands and waters, to make decisions binding all in regard to how these land and waters are approached” (2019, p. 47). Indigenous laws pertaining to IPCAs vary among Indigenous Nations but share some core legal concepts such as, “the understanding that everything is connected, that humans have responsibilities to care for their territories, each other and the other beings that sustain them, and a recognition of the rights and agency of nonhuman beings” (Innes et al., 2021, p. 3).

In contrast, mainstream (i.e. Crown) parks and protected areas are established under Crown protected area legislation (e.g. Canada’s National Parks Act), an expression of Canadian law. Most terrestrial and marine parks and protected areas in Canada were established without the consent and partnership of the Indigenous Peoples upon whose territories the parks were imposed, at times violently so (Binnema & Niemi, 2006; Sandlos, 2005, 2008). With some exceptions, Crown parks and protected areas limit Indigenous use and governance (e.g. Dragon Smith & Grandjambe, 2020b) despite constitutionally protected Aboriginal rights and title throughout Canada (Constitution Act, 1982, n.d.). This conservation approach differs from Indigenous laws relating to IPCAs that emphasize “fulfilling responsibilities, rather than exercising rights” (Innes et al., 2021, p. 3). The idea that conservation is best achieved by creating uninhabited spaces that restrict livelihood activities is a durable concept intertwined with Eurocentric philosophies of pristine wilderness and results in fortress-style conservation (Cronon, 1996; Neumann, 2004).

121 These views clash with Indigenous perspectives in which “continued human presence on the land and water is seen as positive and essential, with humans being considered an integral part of nature” (ICE, 2018, p. 43). It is not surprising then that the rise of Indigenous-led conservation in Canada is surfaced legal tensions.

While IPCAs are Indigenous-led and do not require Crown designation under Crown legislation, in some circumstances a lack of accompanying protected area designations can

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121 Ironically, the “nature” that parks and protected areas are meant to protect was shaped by Indigenous Peoples’ and their ancestors over millennia in what is now known as Canada (Braun, 2002; N. J. Turner, 2005). It is also ironic that neoliberal economic development is increasingly sanctioned in Canada’s parks and protected areas (Youldes, 2018), and major concessions have been made to facilitate industrial development in B.C.’s provincial parks including conducting feasibility studies for pipelines, transmission lines, and highways (Linnitt, 2014; Park Amendment Act, 2014).
compromise the viability of IPCAs. Yet, many Indigenous Nations do not see Crown legislation as a viable means of protecting their conservation initiatives or agree with the premise that Crown recognition is required or beneficial. Drawing on Indigenous legal orders to establish and govern IPCAs supports the revitalization and practice of Indigenous law, which is in turn an act of self-determination and Indigenous nationhood. Thus, IPCA establishment does not hinge on state recognition or approval. As Dasiqox-Nexwagweţʔan IPCA\(^{122}\) (Tsilhqot’in territory/B.C.) and Grassy Narrows Indigenous Sovereignty Protected Area\(^{123}\) (Treaty 3 territory/Ontario) reveal, however, IPCAs that are not protected under additional layers of Crown protection can be vulnerable to unwanted resource extraction since provinces and territories allocate commercial tenures (e.g., for logging, mining, hydroelectric development, etc.). Despite being protected under Indigenous legal orders, the communities behind both IPCAs face enormous external pressures from industrial logging, and the threat of mining. For example, the Tsilhqot’in communities’ declaration of Dasiqox Nexwagweţʔan was influenced in large part by their 30-year struggle to prevent the development of an open pit mine in their territory, which is already heavily impacted by logging (Youdelis et al., 2021).

The Province of B.C., like other Crown jurisdictions, is caught between legal obligations to tenure holders (i.e., entities with resource extraction rights) and legal obligations to Indigenous Peoples who have recognized rights (i.e. constitutionally protected rights, treaty rights, and inherent rights). Ensuing political tension is often reflected in the Crown’s reluctance to support the conservation visions of Indigenous Nations, for example through interim protection measures, retiring or purchasing tenures, funding for Nations, and shared governance arrangements. These tensions are symptomatic of underlying jurisdictional conflicts in which Crown sovereignty is assumed while Indigenous Nations must prove their title in the courts, something that has successfully occurred only once to date (*Tsilhqot’in Nation v. British Columbia*, 2014). Since Crown governments allocate tenures and licenses for the use and extraction of natural “resources”, the main recourse available to Indigenous Nations seeking to

\(^{122}\) The Tsilhqot’in communities of Xeni Gwet’in and Yunesit’in declared Dasiqox Nexwagweţʔan Tribal Park in 2014.

\(^{123}\) Asubpeeschoseewagong First Nation declared their Traditional Land Use Area an Indigenous Sovereignty and Protected Area in 2018 through the Asubpeeschoseewagong Anishinabek Aaki Declaration.
limit unwanted activities in their IPCAs is the courts. Court processes are costly, lengthy, and adversarial and further drain the finite time and resources of Indigenous leaders while resource extraction may continue unabated in IPCAs. While Indigenous laws underpinning IPCAs can be ignored and disrespected, existing protected area legislation in Canadian jurisdictions like B.C. falls short—at least on its own—of protecting the spirit and intent of IPCAs.

In the Province of B.C., protected area legislation is based on the preservation of ecological and public recreational values on “Crown” land, which is defined as “land owned by the government” (Park Act, 1996). In B.C.—where few treaties have been signed—Crown land lies within Indigenous territories and is home to 198 unique First Nations speaking more than 30 Indigenous languages and nearly 60 dialects, further illustrating jurisdictional challenges (Province of B.C., 2022). The Province of B.C., with input from some Indigenous governments, amended B.C.’s Park Act and the Protected Areas of British Columbia Act in 2006 to include “conservancies.” Conservancies allow for “First Nations’ social, ceremonial and cultural uses” in addition to environmental protection and lower-impact natural resource extraction (Protected Areas of British Columbia Act, 2000). First Nations may participate in co-managing conservancies in their territories with BC Parks. Even so, conservancies limit Indigenous governance, jurisdiction, and laws. For example, First Nations’ governance is limited to an advisory capacity while the Minister’s authority supersedes that of Indigenous Nations in cases of disagreement. While many Indigenous Nations creatively use existing legislation in tandem with Indigenous laws, various challenges impede Indigenous governance, authority, and jurisdiction. Consequently, these challenges hinder the development of legally pluralistic approaches to environmental governance and stewardship, an important but often overlooked dimension of reconciliation.

Across B.C., many Indigenous Nations have established, or expressed an interest in establishing, IPCAs. Yet, these Nations face various legal hurdles. First, provincial protected area legislation has not been updated to include IPCAs or uphold strong Indigenous or co-

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124 First Nations involved in government-to-government negotiations with the Province of B.C. during the extensive land use planning processes in the Great Bear Rainforest (B.C.’s central and north coast) pushed for the change to existing protected area legislation. Although initially conceived for use in this region alone, the province—in collaboration with local First Nations—may establish conservancies throughout the province. There are currently 158 conservancies in B.C. (BC Parks, 2021).
governance arrangements. Second, B.C. protected area legislation is inconsistent with domestic and international guidance intended to usher in a new era of reconciliation, including UNDRIP (and associated legislation in B.C. and Canada) and the Truth and Reconciliation Commission’s (TRC’s) Calls to Action. Third, B.C. protected area legislation mostly applies to terrestrial environments whereas marine conservation mostly falls under federal jurisdiction and corresponding legislation. This distinction creates challenges for Indigenous Nations with marine and terrestrial territories who approach their responsibilities from a holistic perspective. Fourth, when Indigenous Nations do wish to establish conservancies or other protected areas under provincial legislation, there are no processes or legal mechanisms requiring the province to consider proposals or enact interim protection measures. Further, the province lacks a mandate to establish new protected areas, and may perceive the potential legal and financial risks associated with establishing new protected areas in partnership with Indigenous Nations as barriers (Cox, 2020; Wood, 2021). Despite these limitations, Indigenous Nations have worked with provincial agencies to jointly establish and govern protected areas under both Indigenous and Crown law (Innes et al., 2021). However, these protected areas are the exception and require extensive time and energy inputs from Indigenous Nations and provincial agencies to find creative workarounds and enact strong co-governance. Despite, or even because of, the challenges outlined above, the current moment in conservation in B.C. presents exciting opportunities for Indigenous Nations, the Province of B.C., and the conservation sector.

5.1.2 Legal impetus to support Indigenous-led conservation

The impetus to support Indigenous-led conservation and legally pluralistic approaches to conservation in B.C., as well as other provinces and territories in Canada, is growing stronger. The Government of Canada and the Province of B.C. have mandates to advance reconciliation with Indigenous Peoples which has implications for law and conservation. Yet, protected area legislation in B.C. has not been amended to reflect major changes in the legal and political landscape. These changes include recommendations from Canada’s TRC, B.C.’s passing of the Declaration on the Rights of Indigenous Peoples Act (DRIPA), the recognition of Aboriginal title in the Tsilhqot’in case (Tsilhqot’in Nation v. British Columbia, 2014), the recent decision highlighting B.C.’s failure to protect Aboriginal treaty rights from cumulative impacts (Yahey v. British Columbia, 2021), and B.C.’s endorsement of the 2019 Recognition and Reconciliation of
Rights Policy for Treaty Negotiations in British Columbia (Recognition and Reconciliation of Rights Policy; CIRNAC, 2019). Further, ICE has recommended that Crown and Indigenous governments review and possibly amend existing protected area legislation to support IPCAs (ICE, 2018, p. 60). ICE suggests that topics for review include the recognition of Indigenous governance and laws, new IPCA-specific designations, and associated mechanisms to enable various governance models for IPCAs (e.g., Indigenous governance and co-governance).

In 2019, the Province of B.C. passed DRIPA, which has been furthered strengthened by Canadian case law and Section 35 of the Constitution jurisprudence and is aligned with TRC recommendations. In their final report, the TRC (2015) called upon Canada to “reconcile Aboriginal and Crown constitutional and legal orders to ensure that Aboriginal peoples are full partners in Confederation” and to denounce concepts such as the Doctrine of Discovery and *terra nullius* (Call to Action 45). The TRC calls for building and maintaining respectful relationships, which requires “the revitalization of Indigenous law and legal traditions” (p. 16). The Province of B.C. and the Government of Canada both adopted UNDRIP as the framework for their reconciliation mandates, fulfilling the TRC’s recommendation to do so.\textsuperscript{125} DRIPA requires the Province of B.C. to ensure the laws of B.C. are consistent with UNDRIP. Some of UNDRIP’s Articles are particularly relevant to IPCAs. These include principles pertaining to Indigenous Peoples’ rights to the lands, territories and resources which they have traditionally “owned” (Articles 25, 26, 27, 28), the conservation and protection of the environment (Articles 25, 26, 29, 32), decision-making (Article 18), granting or withholding free, prior, and informed consent (FPIC) for example for legislative processes (Article 19), and the recognition of Indigenous laws (Articles 27, 40).

These UNDRIP Articles are increasingly supported by Section 35\textsuperscript{126} jurisprudence that now recognizes Aboriginal title for the first time in the Tsilhqot’in case. In this watershed ruling, the Supreme Court of Canada affirmed that Aboriginal title includes “the right to decide how the land will be used; the right of enjoyment and occupancy of the land; the right to possess the land;

\textsuperscript{125} The TRC, in their final (2015) report, described Canada’s Indian residential school system as attempted genocide. Progress on the TRC’s 94 Calls to Action, which cover a range of issues including equity in the legal system, has been slow (Assembly of First Nations, 2020).

\textsuperscript{126} Section 35 of Canada’s *Constitution Act, 1982* explicitly affirms “Aboriginal” (i.e. First Nations, Inuit, and Métis) and treaty rights. Aboriginal rights include Aboriginal title (akin to ownership), occupancy and harvesting rights, rights to self-governance, and cultural and social rights.
the right to the economic benefits of the land; and the right to pro-actively use and manage the land” (Tsilhqot’in Nation v. British Columbia, 2014; paras 73 & 88). As ICE (2018) urges, “real implementation of Section 35 of the Canadian Constitution must happen. Otherwise, what is the true value of a constitutional right?” (p. 28). ICE posits that IPCAs can be “Section 35 innovations” when Indigenous Nations establish them as legal instruments using traditional governance and constitutional law to enact Indigenous responsibilities—regardless of government recognition (p. 79). Several key government policies and mandates increasingly support legal pluralism, an approach that can bridge Indigenous and Crown law to support reconciliation.

The 2019 Recognition and Reconciliation of Rights Policy\textsuperscript{127} for treaty negotiations in B.C. and Canada formally acknowledges pre-existing, contemporary, and inherent rights of Indigenous Nations. Further it acknowledges that “pre-existing Indigenous sovereignty” and “assumed Crown sovereignty” remains largely unreconciled (CIRNAC, 2019). Importantly, the policy denounces the “historic legacies of Crown denial, unilateralism, and the doctrine of discovery” and expresses the intention to create “a new nation-to-nation relationship based on the recognition of rights, reconciliation, respect, co-operation and partnership”\textsuperscript{128} (CIRNAC, 2019). The policy describes how recognizing the inherent rights\textsuperscript{129} of Indigenous self-determination is foundational to legal pluralism, specifically reconciling and reaching the “co-existence of federal, provincial and Indigenous jurisdictions, laws and legal systems” (CIRNAC, 2019). The Recognition and Reconciliation of Rights Policy explicitly recognizes Crown and Indigenous jurisdiction, sovereignty, rights, and legal systems. If implemented beyond the intended scope of treaty negotiations in B.C., this pluralistic framework to Crown-Indigenous

\textsuperscript{127} Indigenous Nations pursuing treaty negotiations in B.C., the Province of B.C., and the Government of Canada co-developed this policy in the context of the B.C. treaty negotiations framework. In B.C., most Indigenous Nations have not concluded treaties.

\textsuperscript{128} The doctrine of discovery refers to a 15\textsuperscript{th} century legal decree, originating from the pope, that was used by Spain and Britain to justify colonization and settlement in the Americas. Terra nullius was a fundamental tenet of the doctrine, which was a fabricated notion that the Americas were empty upon European settlement. The TRC denounced the doctrine in its final report. Yet, Canada’s legal dominance, largely unquestioned to this day, is founded on colonial ideologies that lurk in contemporary Crown legislation.

\textsuperscript{129} UNDRIP describes how the inherent rights of Indigenous Peoples “derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources”.
relations could inform legal innovations in protected area legislation to support IPCAs and Indigenous governance. If new or amended protected area legislation is to uphold IPCAs as Indigenous-led initiatives, pernicious issues affecting governance must be addressed. Some of these include weak co-governance arrangements, the province’s tenure allocation process, inadequate monitoring and enforcement, and the lack of interim protection measures (see also Tran, Neasloss, et al., 2020).

5.2 Methods

I worked with KXSA’s leadership, including their legal and technical team, to identify the research questions, case study legislation, and knowledge mobilization strategies. Kitasoo Xai’xais Nation’s territory is in the heart of the Great Bear Rainforest on the central coast of B.C. (see Section 2.5.2). The Nation is exploring the establishment of IPCAs in terrestrial and marine environments to ensure important places and relationships are protected while upholding Kitasoo Xai’xais laws and governance. Given the limitations of existing legislation, Kitasoo Xai’xais Nation is interested in modifying existing legislation, or creating new legislation or specialized regulations, that would enable Crown protection of IPCAs while upholding Indigenous jurisdiction (Tran, Neasloss, et al., 2020). Kitasoo Xai’xais Nation is involved in conversations with various provincial ministries to explore possibilities for legislative change in their territory. As an environmental scholar and practitioner who does not have Indigenous ancestry or ancestral ties to what is now known as B.C. and Canada, I respectfully acknowledge Indigenous legal, governance, and knowledge systems. I am inspired by how these systems continue to find expression through modern applications such as IPCAs. The views in this paper are my own and I have attributed contributions from KXSA where applicable.

I am a second generation Canadian of European ancestry whose doctoral research interrogates possibilities for reconciliation through IPCAs. I have ties to xʷməθkw̓əy̓əm (Musqueam), Sḵwx̱wú7mesh (Squamish), and Sel̓íl̓witulh (Tsleil-Waututh) territories. I am

130 The nation has approximately 500 members, the majority of whom live in the remote village of Klemtu on Swindle Island about 500 kilometres (km) north of Vancouver. Kitasoo Xai’xais Nation is actively governing its lands and waters through its planning, management, and protection efforts.

131 In part, Kitasoo Xai’xais Nation is considering establishing IPCAs as a new way of governing their territories that could be supported by modifying B.C.’s Park Act to include new conservation designations like IPCAs.
working in various ways to support Indigenous-led conservation initiatives in B.C. and beyond, in part through my involvement with the Conservation through Reconciliation Partnership (CRP) as a researcher and contractual employee. The CRP is a decolonial research partnership funded in large part by the Social Sciences and Humanities Research Council of Canada. The CRP aims to advance Indigenous-led conservation, decolonization, and reconciliation in Canada by fostering a nation-wide network of researchers, Indigenous leaders, conservation NGOs, lawyers and other practitioners who share these aims.

I employed multiple methods, including key informant interviews, legislative analysis of relevant protected area legislation, a literature scan, and a review of pertinent Indigenous-led environmental management plans and other documents (e.g., agreements, news articles) related to the IPCAs I reviewed. I also draw on my 12 years of experience working in the fields of resource management, environmental assessment, and conservation—often in collaboration with Indigenous Nations—in B.C. and Canada as an environmental consultant and practitioner. I conducted three semi-structured key informant interviews with the KXSA’s core leadership and advisory team. These interviews illuminated the legislative challenges and opportunities the Kitasoo Xai’xais Nation is facing vis-a-vis conservation and IPCAs. To clarify the legal context of Thaidene Nëné and the NWT’s Protected Areas Act, I conducted one interview with Lutsel K’ee Dene First Nation’s lead negotiator for Thaidene Nëné. I also organized a public webinar in 2020 through the CRP, with support from West Coast Environmental Law, on the legal dimensions of Thaidene Nëné with Lutsel K’ee Dene’s negotiating team (CRP et al., 2020). This webinar further revealed aspects of Thaidene Nëné’s establishment and governance, enabled in part through the new territorial legislation I discuss below.

The academic literature scan revealed that very little has been published about the ability of Crown legislation to enable Indigenous-led conservation and IPCA establishment in Canada. Similarly, little has been published on the intersections of Crown and Indigenous law in the Canadian conservation context, and even less in the context of IPCAs. I selected the NWT’s Protected Areas Act because it is one of few acts in Canada that seems positioned to support the protection of IPCAs and that has also been used to designate an IPA. Thaidene Nëné has

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132 Further, the Province of Quebec has yet to designate an “Aboriginal-led protected area” under its amended (2021) legislation, the Natural Heritage Conservation Act.
been globally recognized as an innovative example of co-governance using a multi-jurisdictional approach to conservation; however, there is a lack of published analyses on the role the new territorial legislation has played with the IPCA. Due to the scarcity of examples in the Canadian context, I turn to another Commonwealth state that also operates on a common law legal system and has a similar context of settler colonialism. To illustrate an innovative international approach to legislative reform, I discuss Aotearoa New Zealand’s *Te Urewera Act, 2014*. KXSA identified an interest in both of these acts.

I note that Indigenous Nations in B.C., as in Canada and elsewhere, are diverse and do not hold homogenous views about, or necessarily share similar agendas surrounding, conservation and IPCAs, or protected area legislation. Future research conducted by, or in partnership with, Indigenous Nations on legal innovations in support of IPCAs in B.C. is warranted. As such, I do not prescribe a specific pathway for legislative reform in B.C. to support IPCAs or suggest that using Crown legislation is feasible or desirable for all Indigenous Nations. I offer the analysis below to identify some of the supportive elements that collaboratively developed legislation could contribute to IPCAs in B.C., although these findings are relevant to other jurisdictions in Canada and globally. I encourage conversations among Indigenous Nations and the Province of B.C., and other jurisdictions, that could lead to new or revised legislation supporting legally pluralistic approaches and the advancement of IPCAs. I also problematize the colonial philosophies underpinning Crown law and respect the decisions of Indigenous Nations who prefer not to utilize Crown legislation or pursue state recognition.

5.3 **Protected Areas Act (2019), Northwest Territories, Canada**

I now turn to the NWT and Thaidene Nêné to illustrate how Indigenous and Crown legal orders can act synergistically to support a multi-designation approach to ecological protection which could inform legislative approaches that support IPCAs in other jurisdictions like B.C.. I highlight the ways the new and collaboratively developed legislation enables co-governance and promotes the continuity of Indigenous cultures through conservation in the NWT. Only two territorial protected areas have been designated so far under the *Protected Areas Act: Thaidene Nêné and Ts’udé Niljné Tuyeta, both in 2019. Although Indigenous governments, communities, and organizations initiated the creation of these protected areas and sought additional protection
under NWT law, they had already been protecting these areas for a long time and more recently declared them as IPCAs protected under Indigenous laws (Lutsel K’e Dene and K’asho laws respectively). While the legislation does not stipulate that territorial protected areas must also be IPCAs, some Indigenous Nations are using the intentionally flexible legislation to support Indigenous-led protection of their territories.

In 2019, the NWT’s Protected Areas Act came into force, offering a promising approach to the establishment and governance of terrestrial protected areas. While the act does not name IPCAs or explicitly enable their protection, the new legislation has three noteworthy features. First, unlike most protected area legislation in Canada, it was developed collaboratively with Indigenous governments in the NWT; second, it contains provisions for the mutual establishment and co-governance of protected areas; and third, it promotes cultural well-being and continuity through biodiversity conservation. I briefly discuss each of these aspects with illustrative examples from Thaidene Nënë, a large IPA established by Lutsel K’e Dene First Nation (LKDFN), the Government of the Northwest Territories (GNWT), and Parks Canada using multiple legal orders. The territorially protected area of Thaidene Nënë was the first protected area established under the new legislation.

In August 2019, LKDFN, Parks Canada, and the GNWT announced Thaidene Nënë in the traditional territory of the Akaitcho Dene First Nations, of which LKDFN is a member (Figures 5-1 and 5-2). Thaidene Nënë is home to the LKDFN and includes the small and remote fly-in community of Lutsel K’e. The area is also culturally significant for the Northwest Territory Métis Nation, Deninu K’ue First Nation, Yellowknives Dene First Nation, and the North Slave Métis Alliance (Parks Canada, 2021). Spanning 26,376 km² of LKDFN’s 200,000 km² territory, the IPA includes the east arm of Tu Nedhé (Great Slave Lake) and is in the transition zone between the boreal forest and the arctic tundra. Meaning “land of the ancestors” in Dënesųłiné Yati, Thaidene Nënë is aptly named since LKDFN’s ancestors have been caring

133 Although Thaidene Nënë is the first territorial protected area designated under the Protected Areas Act, it was approximately 90% complete when the legislation came into force. Since Thaidene Nënë’s negotiating team also participated in the establishment of the act, Thaidene Nënë influenced the act’s establishment just as the territorial designation contributed to Thaidene Nënë’s protection (Nitah, 2020, interview).
for the area since time immemorial. Thaidene Nënë’s establishment was enabled by three legal orders and four protected area designations.

First and foremost, the entirety of Thaidene Nënë is designated under Lutsel K’ee Dene legal orders (Innes et al., 2021; Thaidene Nene, n.d.-c); secondly, a portion of it is a “national park reserve” designated under the National Parks Act; and finally, another portion is a “territorial protected area” under the NWT’s Protected Areas Act and a “wilderness conservation area” under the NWT’s Wildlife Act. LKDFN’s vision for Thaidene Nënë is *nuwe nënë, nuwe ch’amé yunedhé xa* (“our land, our culture for the future”). These designations reflect multiple spatialities, relationships to the land, and governance mandates. Thaidene Nënë will remain Indigenous-led while LKDFN shares aspects of governance with invited partners, Parks Canada and the GNWT. Industrial development and large-scale extraction are not permitted throughout Thaidene Nënë, while infrastructure corridors are allowed in the territorially protected areas. Small scale hydroelectric development to service LKDFN and Thaidene Nënë as well as artisanal quarrying (e.g., soapstone for carving) and small local fisheries are also allowed in the territorially protected areas (Thaidene Nene, n.d.-d).

Extensive mineral staking throughout LKDFN’s territory precipitated the discovery of diamonds and precious metals in the 1990s (Thaidene Nene, n.d.-a). LKDFN Elders were motivated to protect Thaidene Nënë from this industrial boom and were supported by two land withdrawals that provided interim protection from mining and development. These interim protection measures were instrumental to the establishment of Thaidene Nënë almost 50 years later. In 1970, in anticipation of creating “East Arm National Park” on the east arm of Great Slave Lake, the Government of Canada withdrew approximately 7000 km$^2$ of land, protecting the area from extractive industries and development which intensified in subsequent decades. LDKFN ultimately prevented the creation of this park at that time as they anticipated impacts to hunting and trapping, and the Dënesųłıné way of life. Though the national park never materialized, the land remained under withdrawal. In 2000, LKDFN declared the area protected under its own authority and rekindled discussions with the Government of Canada about cooperatively establishing a national park (Innes et al., 2021). In 2007, the Government of Canada and GNWT withdrew an additional 26,000 km$^2$, thereby placing a larger area (33,000 km$^2$ in total) under interim protection while the three governments negotiated the establishment
of Thaidene Nëné. Although in the end only 26,376 km² of LKDFN territory was protected, if it were not for these withdrawals much of the lands and waters in what is now encompassed by Thaidene Nëné would likely have been significantly developed and impacted by mining. Ironically, while the federal government’s first land withdrawal in 1970 was a form of colonial land expropriation for conservation, the withdrawal ultimately supported the establishment of an IPCA nearly forty years later. By contrast, the federal government’s larger withdrawal in 2007 reflects the evolving state of Crown-Indigenous relations which continued to mature into a collaborative governance model for Thaidene Nëné.

Figure 5-1. Thaidene Nëné, Northwest Territories

Source: Thaidene Nene, n.d.-b, p. 5
5.3.1 Collaboratively developed legislation

Prior to the enactment of the *Protected Areas Act*, the GNWT did not have legislation for comprehensive protected areas. The *Territorial Parks Act* (1988) enabled the establishment of recreational, wayside, heritage, and territorial parks, as well as cultural conservation areas, but was not connected to a broader protected area strategy for the territory. Although Indigenous Peoples can hunt or fish for sustenance in territorial parks (as can any individual in possession of appropriate licenses), the 1988 legislation was not developed with Indigenous Peoples and does not recognize the cultural aspects of ecological protection. The new legislation was created as part of the territorial devolution process in 2014 whereby the Government of Canada delegated responsibilities for the management of lands and resources to GNWT’s Department of Environment and Natural Resources (ENR).

Through a partnership approach, ENR undertakes legislative initiatives, such as the creation of the *Protected Areas Act*, with input from Technical Working Groups consisting of Indigenous governments and regulatory boards. Sixteen Indigenous governments and

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134 The *Northwest Territories Devolution Act* became law on March 25, 2014, and *Northwest Territories Devolution Agreement* came into effect on April 1, 2014. Indigenous Nations and representatives are parties to the agreement. Canada’s other two northern territories, Yukon and Nunavut, have gone through, or are going through, similar devolution processes respectively.

135 ENR developed the partnership process for legislative initiatives with Indigenous governments and organizations. The GNWT provides funding for representatives to sit on the Technical Working Group and Stakeholder Advisory Group on a case-by-case basis. Stakeholder Advisory Groups composed of NGOs, boards, and industry representatives also provided input for consideration (ENR, n.d.-a).
organizations, including LKDFN, were invited to participate in the Technical Working Group (along with territorial renewable resources boards and the Canadian Wildlife Service). The group met eight times during the development of the *Protected Areas Act*. The GNWT held a public review period on the plain language summary of the proposed legislation before the bill received royal assent in July 2019 (ENR, n.d.-a). The collaborative process of legislative development responds to UNDRIP Article 19 and ICE Recommendation 9. I am cautiously optimistic that this legislation takes strides to advance co-governance beyond co-management regimes that relegate Indigenous governance to advisory roles. Further, it emphasizes cultural continuity as a critical component of conservation efforts, which is indicative of a different approach to conservation.

5.3.2 Mutual establishment and co-governance of protected areas

Under the *Protected Areas Act* the GNWT is required to work with Indigenous governments in the NWT at every stage of protected area development and implementation. I elaborate on three aspects of collaboration and co-governance facilitated by the legislation here: identifying candidate protected areas and ensuring interim protection, negotiating establishment agreements, and establishing co-governance boards. Indigenous governments and organizations can nominate candidate protected areas for consideration by the Minister and approval by the GNWT’s Executive Council. Once the Executive Council approves a candidate protected area, it is added to the protected area registry and placed under interim protection until it is designated as a territorial protected area with protections afforded by the act or removed from the registry. This is consistent with ICE’s recommendation that Crown governments enact land withdrawals as interim protection measures while IPCA negotiations and engagement efforts are underway (2018, p. 61). Interim protection is critical for ensuring that the ecological and cultural values within the candidate area are not degraded while the establishment process is underway. If the nominating Indigenous government/s or organizations withdraw their support for the candidate

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136 The GNWT is a unique government in Canada, and one of the youngest legislatures. Along with the Nunavut, the NWT is one of two jurisdictions in Canada that has a non-partisan consensus government, although it still uses a majority vote to make decisions and pass legislation. Many elected members of the legislative assembly are Indigenous Peoples from the NWT and the current premier is Métis. The Executive Council is the senior decision-making body of the GNWT and is comprised of the Premier and six ministers who hold key governance and administrative functions.
protected area the area is removed from the protected area registry. If a nominated area contains treaty lands the consent of those Indigenous governments are required.

Prior to the creation of a protected area under the new act, the GNWT must negotiate agreements for the candidate protected area with local Indigenous governments and organizations that outline the terms of establishment and governance. The establishment agreements enable Indigenous governments to determine, with the GNWT, protected area boundaries, objectives, acceptable and prohibited activities, management board structure and responsibilities (if applicable), and activities related to exercising Aboriginal and treaty rights. As Steven Nitah, Lutsel K’ee Dene First Nation’s Lead Negotiator for Thaidene Nëné explains, an establishment agreement is a “living, breathing agreement” that is contractual and legally binding. Intended to be flexible and adaptive, the parties to an establishment agreement can adjust the regulations and management of a protected area at regularly agreed upon intervals. The parties can scale protection up or down using the establishment agreements subject to territorial laws and regulations such as hunting and fishing rights and privileges. The agreements are blueprints that can be adapted to changing contexts such as the completion of land, resources, and self-government agreements (treaties) as well as changing ecological contexts. If a completed agreement acknowledges shared jurisdiction it would amend an establishment agreement and could amend the new legislation if necessary (Nitah 2020, interview).

LKDFN negotiated an establishment agreement with Parks Canada (federal partner) and one with the GNWT’s ENR (territorial partner). The establishment agreements support cooperative management among the three governments with LKDFN as the consistent governing entity. This is important because for Indigenous peoples “the boundary of Thaidene Nëné is seamless” (Nitah 2020, interview). As Steven Nitah describes, Thaidene Nëné “is an expression and an example of what reconciliation looks like for us” (CRP et al., 2020). LKDFN designed the establishment agreements to complement the final land, resources, and governance agreement that the Akaitcho Dene First Nations have been negotiating since 1992. Once ratified the agreement will update the Treaty of 1900 (Treaty 8), which LKDFN understands to be an agreement about sharing resources among signatories and ensuring LKDFN can continue to thrive in its ancestral territories (Nitah 2020, interview). As Thaidene Nëné manager Iris Catholique describes, LKDFN’s dream about Thaidene Nëné “has always been on the mind of
our people. If you go back to the signing of Treaty 8 in 1900, you will hear the words: as long as
the sun shines, grass grows, and the rivers flow we shall protect our traditional homeland”
(Thaidene Nëné, 2021). Thaidene Nëné is a pathway for implementing the Treaty of 1900 since
the parties to the establishment agreements are now aligned on a vision to protect Thaidene Nëné
and the Dënesųłíné way of life for future generations (Thaidene Nene, n.d.-d). Once the Akaitcho
lands, resources and governance agreement is finalized, Thaidene Nëné will have an additional
layer of constitutional recognition that will supersede other management directives (Nitah 2020,
interview).

The Protected Areas Act stipulates that a management board may be established (but is
not required) to oversee the protected area as is the case in Thaidene Nëné. Thaidene Nëné Xá
Dá Yáltí, meaning “the people that speak for Thaidene Nëné” in Dënesųłíné, is the operational
management board responsible for guiding the operations and management of Thaidene Nëné.
LKDFN Elders and the Thaidene Nëné Advisory Committee directed the board’s establishment.
Each party (LKDFN, GNWT, and Parks Canada) has equal representation on the board. Once
appointed, board members no longer represent their organizations but rather Thaidene Nëné.
This unique approach elevates the standing of Thaidene Nëné as an entity with agency, history,
and needs. The approach also centres Lutsel K’e Dënesųłíné ontology by emphasizing respectful
relationships with the lands and waters within management directives. Parks Canada and GNWT
representatives participate in decision-making related to the National Park Reserve or territorial
areas respectively, whereas LKDFN representatives participate in all decisions throughout
Thaidene Nëné (Thaidene Nene, n.d.-d). The board uses consensus-based decision making and
makes recommendations to the parties for implementation. If the parties disagree and resolution
is not achieved through mediation, the issue is referred to the LKDFN Chief and the Minister
(Thaidene Nene, n.d.-d). This mechanism appears to uphold the nation-to-nation governance
approach (as opposed to referring outstanding conflicts solely to the Minister for resolution). The
parties share operational responsibilities and work collaboratively to implement the board’s
recommendations. Thaidene Nëné Xá Dá Yáltí makes decisions based on LKDFN knowledge
and conservation science with equal respect for multiple knowledge systems. This may prevent

137 The legislation specifies that upon the recommendation of an Indigenous government or organization,
or a management board, the Minister may establish advisory bodies to support the management board
(Section 23 (1-2)).
the documented pitfalls of co-management boards in Canada’s north that privilege Western knowledge systems (Nadasdy 2003 and 2011).

Although the new act enables a promising co-governance framework, I identified several provisions in the legislation that could potentially undermine Indigenous jurisdiction, governance, and authority. First, the Minister (ENR) can reject the nominations of candidate protected areas by Indigenous governments and organizations (Section 10(6)). On the contrary, the Executive Council, the senior decision-making body of the GNWT, may approve a candidate protected area for establishment if the GNWT considers itself to have discharged its duty to consult. This could be problematic if an Indigenous government or organization disagrees that consultation was adequate. Further, the requirement for establishment agreements to be negotiated with Indigenous governments and organizations appears to be a limited safeguard for ensuring that Indigenous consent is secured since the Minister is only required to make “best efforts to enter into establishment agreements” with Indigenous governments and organizations (Section 14(4)). While the preference is for co-establishment, the legislation contains a provision that enables the Executive Council to proceed with protected area establishment with only partial Indigenous consent.138

5.3.3 Biodiversity conservation and cultural continuity

The Protected Areas Act explicitly integrates ecological and cultural principles of conservation and seeks to protect both in collaboration with Indigenous Peoples. This is significant because in Canada (and much of the world) the cultural and relational dimensions of conservation139 are not central to protected area legislation, when acknowledged at all.140 The Protected Areas Act contains provisions for the establishment of interconnected and permanent protected areas “representative of the ecosystems and cultural landscapes found in the

138 If there is a lack of unanimous consent among multiple Indigenous governments upon whose territories a candidate protected area is located, the GNWT can proceed with establishing the protected area so long as one Indigenous government or organization is supportive, or it has discharged its duty to consult (Protected Areas Act, 2019, 20-21).
139 Here I am referring to the ways in which ecological landscapes are also cultural landscapes thereby recognizing their mutual co-constitution.
140 Exceptions include “conservancies” under B.C. legislation, “Indigenous Traditional Use Parks” under Manitoba legislation, and Aboriginal-led protected areas under Quebec legislation.
Guided by the twin objectives of protecting biodiversity while ensuring cultural continuity, the GNWT acknowledges that “Conservation of biodiversity is essential for long-term maintenance of healthy ecosystems, natural and cultural resources, and human well-being, including food security. In the NWT, the land and water are lifelines for Indigenous cultures and the well-being of all people” (ENR, n.d.-b). Countless studies, and Indigenous knowledge systems, have revealed the beneficial and mutually reinforcing role of human cultures and ecosystems for their continued renewal (Berkes, 1999; Berkes & Davidson-Hunt, 2006; Cuerrier et al., 2015; Garibaldi & Turner, 2004; Maffi & Ellen, 2010; N. J. Turner et al., 2000). Cultural approaches to conservation that include Indigenous knowledge systems and ontologies can enable flexibility and adaptive management processes that approach ecosystem and community well-being holistically (Berkes et al., 2007; Caillon et al., 2017; Ens et al., 2015).

In Thaidene Nëné, LKDFN’s intent is “to protect and promote our Denesuline Way of Life and our language, culture and traditions continue to lay the foundation and basis of Thaidene Nëné implementation” (LKDFN, n.d., p. 1). LKDFN’s long-term vision for Thaidene Nëné centres self-governance and land protection, community well-being, cultural revitalization, and developing first class community infrastructure. This vision is outlined in LKDFN’s five-year strategic plan (2020-2025). The associated management goals LKDFN outline in the plan extend across the entirety of Thaidene Nëné and are afforded additional layers of Crown protection in the territorial and federally protected areas. An example of LKDFN leadership connecting ecological and cultural aspects of conservation is evident in LKDFN’s Caribou Stewardship Plan.

Caribou are a cultural keystonespecies inextricably linked to the Dënesųłíné way of life. LKDFN have observed stark changes in caribou migration patterns and in some years caribou no longer travel near Lutsel K’e. Between 1986 and 2018 the Bathurst herd, of particular importance to LKDFN, dropped by 98% pushing the herd to probable extinction. LKDFN attributes the decline to human influences including climate change and resource extraction

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141 The new act is intended to support the objectives of a conservation network and a renewed protected area strategy currently underway.
142 The Act defines “cultural continuity” as “the evolving linkages and ongoing relationship between Indigenous culture and the natural environment” (pg. 11).
among other cumulative influences. LKDFN states the purpose of the Caribou Stewardship Plan is to

   protect the ?etthën [caribou] in order to ensure ?etthën and our way of life continues to exist as long as the sun shines, the grass grows, and the river flows. We are the stewards of our nı́ (land) and we have an inherent right and responsibility to protect the nı́ and tué (water), as well as all forms of life. We will exercise this right and responsibility, in part, through this Plan. (LKDFN Wildlife, Land and Environment Department, 2020, p. 10)

One of the Dënesųłıné values upheld in the plan is nuwé yaki begháre zeghadalidá (“we have our own laws that we must follow”). LKDFN is a sovereign nation with its own laws that must be followed in order to make good decisions in the interests of the caribou. To reduce further impacts to the threatened Bathurst herd, LKDFN identified seven management tools including Indigenous Guardians or Ni Hat’ni Dene, “watchers of the land,” and habitat conservation (LKDFN Wildlife, Land and Environment Department, 2020). In Thaidene Néné, it is understood that the protection and restoration of important species and relationships are not only critical to biodiversity conservation, but also to the protection and revitalization of Dene culture. LKDFN’s role is central to Thaidene Néné as governing body and land-based Guardians. Ni Nat’ni Dene are responsible for, among other things, protecting cultural sites and inter-generational transfer of Indigenous and scientific knowledge (Thaidene Nene, n.d.-b)

   In summary, Thaidene Néné illustrates how multiple legal orders can be used to protect important ecological and cultural landscapes grounded in Dene philosophies and responsibilities to the land as well as conservation science and policy. The Protected Areas Act, in concert with federal legislation enacting a National Park Reserve, and territorial legislation enacting a Wildlife Conservation Area formalizes a portion of LKDFN’s IPCA under territorial law. This is important for ensuring that activities taking place within Thaidene Néné are consistent with LKDFN’s vision and intent (i.e. preventing industrial development and large-scale extraction). Although the legislation does not explicitly enable IPCAs, various aspects of the legislation are noteworthy and appear to support Indigenous-led conservation efforts. I now turn to an international example that took a completely different legislative tact and is upheld globally as an example of legal innovation.
5.4 *Te Urewera Act 2014, Aotearoa New Zealand*

In July 2014, *Te Urewera Act 2014*, ground-breaking legislation developed by the Tūhoe *iwi* (a Māori tribe) and the New Zealand government, was enacted heralding “a new dawn for conservation management in Aotearoa New Zealand” (Ruru, 2014). The enactment of the legislation was a key outcome of a major Crown-Tūhoe settlement process that included a Crown apology, and various forms of redress for historical grievances. *Te Urewera Act 2014* recognizes parallel sovereignties, embraces legal pluralism, grants juristic personhood to natural entities, and bestows a guardianship role to Tūhoe. Te Urewera is the ancestral homeland of the Tūhoe which, prior to British settlement, encompassed over one million acres (Figure 5-3). As the legislation describes, Te Urewera is “ancient and enduring, a fortress of nature, alive with history.” It is Tūhoe’s *ewe whenua*, “their place of origin and return” and “expresses and gives meaning to Tūhoe culture, language, customs and identity” (Te Urewera Act 2014, n.d.; Tūhoe, 2021). *Te Urewera Act 2014* is significant for Tūhoe, other Māori *iwi* (tribes) and for pakeha (New Zealanders) alike. It is a “place of spiritual value” and “has an identity in and of itself” (Te Urewera Act 2014).

*Te Urewera Act 2014* begins to turn the tables of power after over 150 years of brutal colonialism in Aotearoa New Zealand including Māori displacement and scorched earth tactics, persecution, the usurpation of Tūhoe traditional territory and the criminalization of Tūhoe cultural and livelihood practices (O’Malley, 2014). Following earlier colonial doctrines (e.g. British interpretation of the Treaty of Waitangi), an armed and bloody civil war, the “New Zealand land wars,” erupted in the 1860s and lasted a decade (Ruru & Kohu-Morris, 2020). In 1865, the Crown seized most of the Tūhoe’s productive land and waged war in Te Urewera until 1871. The wars led to Tūhoe executions, displacement, detainment, starvation, and widespread death (New Zealand Government, 2013). The British deployed a variety of colonial tactics through legal measures (replacing military force) to displace Tūhoe and open their lands to private ownership, road building, and resource extraction. The Crown created the Urewera Reserve in 1896, already a smaller enclosure than Tūhoe’s traditional territory, which was supposed to enable Tūhoe self-government. However, following the 1921 Urewera Consolidation Scheme, only 16 percent of the reserve remained for Tūhoe and the Crown continued to sell it off (New Zealand Government, 2013). Through these successive
displacements, communal and customary systems of land guardianship were eroded—despite the resistance of Tūhoe leaders (O’Malley, 2014). The Government of New Zealand’s establishment of Te Urewera National Park further alienated Tūhoe from their homelands.

Tūhoe did not consent to the New Zealand government’s creation of a national park in 1954, which encompassed most of Tūhoe’s traditional territory, or its expansion in 1957. Through park establishment the Government of New Zealand further entrenched Tūhoe lands as a space of state governance and public enjoyment. Through park regulations the state restricted Tūhoe customary use of their homelands which impacted Tūhoe relationships with Te Urewera and adjacent lands (Barrett et al., 2020; Kauffman, 2020; New Zealand Government, 2013). These restrictions combined with earlier assaults and displacements resulted in approximately 85 percent of Tūhoe residing outside of Te Urewera by the time Te Urewera Act 2014 came into force (New Zealand Government, 2013; O’Malley, 2014). The roughly 5,000 Tūhoe remaining in Te Urewera experience high rates of poverty in part due to earlier restrictions on their ability to develop and use the lands inside or adjacent to Te Urewera National Park (Kauffman, 2020). The act’s removal of these restrictions means Tūhoe may pursue economic development consistent with the management principles for Te Urewera within its borders.

Although the legislation does not use the framing of Māori-led conservation, the Te Urewera Act 2014, like the NWT’s Protected Areas Act, is relevant to discussions of legal pluralism and legislative innovations to support IPCAs. Whereas the motivations for establishing the NWT’s Protected Areas Act were primarily pragmatic (i.e. a need for new legislation connected to a broader conservation mandate), in Aotearoa New Zealand the creation of Te Urewera Act 2014 was part of a historic and comprehensive treaty settlement. In both instances Indigenous Peoples and Māori contributed to the enactment of new legislation that enables stronger governance roles for them while connecting cultural objectives to conservation goals. In both the Protected Areas Act and the Te Urewera Act 2014, the legislation seeks to strengthen the cultural connections Indigenous Peoples in the NWT and Tūhoe in Te Urewera have to their territories. While both acts support the exercise of Indigenous rights and responsibilities, the framing of Tūhoe responsibilities and worldviews is particularly strong in Te Urewera Act 2014. Similar to the NWT legislation, which contains provisions for co-governance through the

In the following discussion I identify three key features of *Te Urewera Act 2014* that facilitate Māori *kaitiakitanga* (environmental caretaking) while affirming Māori *mana whenua* (rights and responsibilities) and *te tino rangatiratanga* (self-governance, self-determination, sovereignty). First, the settlement process that gave rise to the legislation helps to reconstitute Crown-Māori relations in a more equitable light; second, the attribution of legal personhood to Te Urewera foregrounds Māori cosmology; and third, Māori governance and guardianship are enabled through an innovative management framework. While an example of leading-edge legislation, I also highlight a few potential shortcomings of the legislation.

Figure 5-3. Te Urewera, Aotearoa New Zealand

Source: Te Urewera Board, 2017, pp. 64–65
5.4.1 Settlement process

In 2008, the New Zealand Government and Tūhoe commenced treaty negotiations involving the transfer and management of Te Urewera to Tūhoe and Crown redress for historical grievances. This was part of a $170 million process to settle all of Ngai Tūhoe Historical Claims between the 1860s and 1992. Both parties agreed to respect each other’s *mana motuhake* (sovereignty through self-determination) and facilitate a “new generation of a Crown/Ngai Tūhoe relationship” (New Zealand Government, 2008). Initial negotiations included the potential transfer of Te Urewera to Tūhoe, something that Tūhoe attempted to secure along with self-governance (Sanders, 2018). The New Zealand government abruptly changed course in 2010 as many New Zealanders opposed the transfer of Te Urewera National Park to Tūhoe (Kauffman, 2020). In 2013, Tūhoe and New Zealand signed the *Tūhoe Claims Settlements Act 2014*, which included a historical apology as well as financial and cultural reparations (New Zealand Government, 2013). Although the Crown ultimately refused to transfer ownership of Te Urewera to Tūhoe, both parties agreed to a legal personhood approach for Te Urewera enabled by the establishment of *Te Urewera Act 2014*. Andrew Geddis (unmarked) and Jacinta Ruru (Māori) describe the transformations enabled through the legislation as a “principled compromise that permits redress for the Crown wrongs of the past, whilst creating the basis for a new future relationship” among Tūhoe and the New Zealand government (2019, p. 4).\(^{143}\) *Te Urewera Act 2014* incorporates Māori legal traditions and cosmologies by granting legal personhood to the Tūhoe’s homeland.

5.4.2 Legal personhood and Māori cosmology

In an extraordinary move consistent with a rights of nature approach, in 2014, Te Urewera was recognized as its own legal entity, vested in (essentially owned by) itself. This negotiated breakthrough circumvented the Crown’s unwillingness to transfer property rights to Tūhoe while the legal personhood framework aligns with Māori relational and animistic worldviews (Bataille et al., 2020). Central to *Te Urewera Act, 2014* is *tikanga Māori*, Māori law.

\(^{143}\) For a critical take on the “negotiated compromise” see Coombes’ (2020) important work that equates the granting of legal personhood and settlement processes as a function of state recognition which undermines Indigenous sovereignty and resurgence.
and values maintained through customary systems (Sanders, 2018). As described by Nin Tomas (Māori), “Māori law is based on the idea that Papatuanuku (Earth mother) possesses an inherent, powerful personality that is logically prior to, and completely independent of, human existence” (Sanders, 2018, p. 211). Granting Te Urewera legal personhood is consistent with Aotearoa New Zealand’s “increasing legal recognition of the ‘cosmological view’ of Māori” in which Māori are part of nature through kincentric relationships with the natural world (Bataille et al., 2020; Geddis & Ruru, 2019, p. 14). As one of the lead Tūhoe negotiators Kirsti Luke explained in 2018, “Ownership does not value kinship with the things around us…Rather, it feeds and nurtures self-interest. . .. The impact of this is that it breeds very transactional relationships between humans and the land…Transactional relationships do not grow community” (Kauffman, 2020, p. 583). European notions of private property are incompatible with Tūhoe cosmology, which is based on kinship with—not ownership over—the lands, waters, and species living in Te Urewera (Magallanes, 2015; Te Urewera Board, 2017). As such, Māori cosmology decentres various Eurocentric philosophies and values that underpin conventional parks and protected areas.

Pragmatically, Te Urewera Act 2014 enabled unprecedented changes to land tenure in Aotearoa New Zealand. The legislation dissolved Te Urewera National Park and revoked “conservation areas,” “Crown land,” and “reserves.” Te Urewera “establishment land” (i.e. “fee simple estate”) is now vested in itself as opposed to the Crown (Te Urewera Act 2014). The legislation “represents a respectful way of acknowledging the meaning of these places for Māori that can operate within the existing legal order” (Geddis & Ruru, 2019, p. 30). Unlike Te Urewera National Park, the new Te Urewera enables harvesting of native plants and killing native animals under appropriate permits administered by the co-management board. This reflects a conservation approach aligned with Tūhoe cosmologies of kinship, stewardship and reciprocity rather than the strict no-take model essential to national parks designated under the National Parks Act 1980 (Magallanes, 2015).

Prior to its dissolution, Te Urewera was the largest national park in the North Island, encompassing old-growth forest and bush. Te Urewera Act 2014 revoked the previous status of national park designated under the National Parks Act 1980 under the management of the New Zealand government. Under the previous legislation, the management imperative was to preserve the park in its “natural state.”
*Te Urewera Act, 2014* describes how Te Urewera will be represented and how decisions will be made on its behalf as a legal person. The legislation goes beyond a narrow conception of rights and extends its recognition to include Tūhoe identity. As Tamati Kruger, Tūhoe lead negotiator for the Waitangi Tribunal, explains, Tūhoe identity and values are inseparable from Te Urewera, “We are this land and we are the face of the land. Wherever those mountains come from, that’s where we come from. Wherever the mist emerges from and disappears to, that’s where we come from” (Warne, 2020, p. 74). The legislation is expressed in language that evokes the deep material, cultural, and spiritual connections Tūhoe have with Te Urewera. It is clear from the legislation that what is intended to be protected are the enduring including the ability of future generations to sustain these relationships. Some of the implementation principles engrained in the legislation include the ecological, cultural and heritage preservation of Te Urewera (including the conservation of biodiversity and Indigenous ecological systems), respect for *Tūhoetanga* (Tūhoe values and principles), and ensuring the relationships other *iwi* and *hapū* (tribes and sub-tribes) have with Te Urewera are also upheld (Magallanes, 2015; Te Urewera Act 2014).

Although the legislation is widely celebrated, I identified several critiques and potential shortcomings. First, the state resisted returning expropriated land to its original inhabitants in favour of a nationally palatable approach of legal personhood (Coombes, 2020; Sanders, 2018). While recognizing the rights of nature in law is cutting-edge, it is less radical (though perhaps more politically favourable) than returning land and governing powers to Māori. Brad Coombes (Māori) has argued that the legal personhood framework requires Māori to perform ecocentricity in order to for the state to acknowledge their rights (Coombes, 2020). Meanwhile, some Tūhoe have expressed concern over the Western legal construct of rights given its complicity in colonization and the suppression of Māori (Kauffman, 2020; see also Witter & Satterfield, 2019). On a practical level, the legislation could potentially undermine Tūhoe self-determination depending on how legal personhood is interpreted and regulated. Certain activities Tūhoe may wish to pursue (particularly development or private ownership) in Te Urewera could be deemed inconsistent with the legislation (Coombes, 2020; Geddis & Ruru, 2019). For example, the legislation prevents the management board from removing parts of Te Urewera if the board were to determine it was no longer required (Geddis & Ruru, 2019). Finally, parliamentary
sovereignty means that *Te Urewera Act* could be repealed by a thin majority if the New Zealand Government changed its approach in the future (Sanders, 2018). Despite these shortcomings, legal personhood enables law to act as a “bridge between worlds” in which the Western legal tradition makes space for Māori understandings and legal traditions (Geddis & Ruru, 2019, p. 29). By recognizing Te Urewera as a person through Crown and Māori legal traditions, the New Zealand Government and Tūhoe ushered in a new era of co-governance in Te Urewera (Geddis & Ruru, 2019).

### 5.4.3 Māori governance and guardianship

Tūhoe’s prominent role on the Te Urewera Board, the legal guardian responsible for representing Te Urewera’s rights, formalizes Tūhoe’s longstanding roles as *kaitiaki*. Māori environmental philosophy, according to Tomas, holds that Māori are “*kaitiaki* (caretakers) of the environment” where “*whakapapa* (the maintenance of genealogical links to the land) anchors *kaitiaki* obligations to future generations” (Sanders, 2018, p. 212). When *kaitiaki* uphold their “*mana whenua* (traditional status, rights and responsibilities)” it “maintains the legitimacy of the exercise of authority in relation to land, and strengthens leadership” (Sanders, 2018, p. 212). The legal personhood framework aligns with the philosophy of *whakapapa* and affirms the cultural context and responsibilities Tūhoe have to Te Urewera. It also enables Tūhoe to reflect *Tūhoetanga* (Tūhoe principles and values) in *kaitiakitanga* (environmental caretaking) (Bataille et al., 2020). The Te Urewera Board acts “on behalf of, and in the name of, Te Urewera” in part by creating and implementing *Te Kawa o Te Urewera*, an innovative management plan (Te Urewera Act 2014). The board is required to act in alignment with the legislation, the management plan, and other applicable laws. When making decisions the board “must consider and provide appropriately for the relationship of *iwi* and *hapū* and their culture and traditions with Te Urewera” (Te Urewera Act 2014). The board is empowered to make bylaws, approve budgets, grant permits, receive fines, and enter into covenants with adjacent landowners.

Board membership was initially composed of eight members with equal representation of members appointed by Tūhoe trustees and by the New Zealand Government. Commencing in 2017 the board included an additional member for a total of nine members, this time predominantly Tūhoe (i.e. six members appointed by Tūhoe trustees and three members appointed by the Minister of Conservation). This co-governance model is designed to support
Tūhoe’s capacity for governance post-settlement (Magallanes, 2015). Board members collectively appoint the board’s chair and deputy chair to three-year terms. The board uses consensus-based decision-making reverting to a vote only when consensus is not achieved and appointing a mediator if necessary. Further, the board must function within a high level of collaboration with the purpose of fulfilling the board’s mandate (Te Urewera Act 2014). Although the board’s management structure is weighted towards Tūhoe representation, the legislation includes a provision for a majority of Crown representatives to accept management and regulatory directives (Geddis & Ruru, 2019). The management imperatives are animated through *Te Kawa o Te Urewera*, the management plan that incorporates Māori law and centres Māori cosmology.

Some legal scholars have described *Te Kawa o Te Urewera* as “highly innovative and distinctly different from existing conservation management plans in Aotearoa New Zealand and worldwide” (Geddis & Ruru, 2019, p. 34). The plan directs the board to manage people for the benefit of the land rather than being about land management. This emphasizes the importance of collective responsibility and is intended to recalibrate human-nature relationships and reconnect Tūhoe to Te Urewera. Acting as the “children,” as well as “the voice and servant” of Te Urewera, the board acknowledges that implementing *Te Urewera Act 2014* and the management plan involves “a process of unlearning, rediscovery and relearning” (Te Urewera Board, 2017, p. 9). The management plan outlines nature’s principles observed by Tūhoe living in Te Urewera for centuries and translates these into management concepts. It also discusses the application of legal personality, fostering relationships of connection and care with Te Urewera, business opportunities (or “friendship agreements”), integrity and compliance, and management priorities (Te Urewera Board, 2017).

Te Urewera illustrates the transformative potential of legalizing a Māori approach to conservation from which flows management directives intended to restore Māori connections to their ancestral homelands. By enshrining Māori law and cosmology in the legislation, the board’s mandate, and the management plan, relationships that suffered from successive waves of colonial governance and land management regimes are intended to be healed and restored. This political work is also part of a broader process of reconciliation among the New Zealand government, pakeha, and Māori that makes steps towards redressing historical injustices. However, as
Coombes (2020) has argued, for this effort to be truly transformative, other pernicious aspects of colonialism must be addressed including structural racism, the limitations of co-management, and Eurocentric concepts of ownership and wilderness that still permeate the legislation (Coombes, 2020).

Both Thaidene Nëné and Te Urewera are examples of Indigenous-led conservation facilitated by new legislation that enables stronger governance and guardianship roles for LKDFN and Tūhoe while elevating Dene and Tūhoe worldviews and knowledge systems. Both the NWT’s Protected Areas Act and Aotearoa New Zealand’s Te Urewera Act explicitly seek to promote the cultural ties Indigenous Peoples and Tūhoe have with, and their responsibilities to, their territories. By advancing legally pluralistic approaches that respect Indigenous law and governance, both acts contain various features that support Indigenous-led conservation, and consequently could address some of the legal challenges that Indigenous Nations in B.C. and other Canadian jurisdictions face when they establish and govern their IPCAs (Table 5-1). In the following section we discuss the broader context of why and how legislative interventions, combined with respect for Indigenous laws and governance, can be supportive for Indigenous-led conservation and IPCAs.
Table 5-1. Summary of legal challenges for IPCAs in B.C. and supportive features of legislation from NWT and Aotearoa New Zealand

<table>
<thead>
<tr>
<th>Legal challenges Indigenous Nations in B.C. may encounter as they establish IPCAs</th>
<th>Supportive features of NWT’s <em>Protected Areas Act</em> with examples from Thaidene Nëné</th>
<th>Supportive features of <em>Te Urewera Act 2014</em> with examples from Te Urewera</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Provincial legislation is inadequate for protecting IPCAs.</strong></td>
<td><strong>GNWT developed legislation with input from Indigenous governments in the NWT.</strong></td>
<td><strong>Related to a negotiated settlement process between Tūhoe and New Zealand Government (Tūhoe Claims Settlement Act).</strong></td>
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<tr>
<td>• Existing protected area legislation has not been amended, and new legislation has not been enacted, to designate IPCAs (despite DRIPA).</td>
<td>• Legislation is intentionally flexible to be adapted to local contexts.</td>
<td>• Redress for historical grievances involving Te Urewera.</td>
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<td>• Conservancies can fall short of Indigenous expectations for co-governance and shared authority (e.g. Indigenous governance limited to advisory roles and authority rests with the Minister).</td>
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<td>• $170 million settlement for Tūhoe.</td>
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<td>• Legislation separates terrestrial (provincial authority) and marine (federal authority) environments (some IPCAs encompass terrestrial and marine ecosystems).</td>
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<td><strong>Facilitated major changes in land tenure.</strong></td>
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<td>• Lack of legislative requirement for funding of provincial monitoring and enforcement.</td>
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<td>• Dissolved Te Urewera National Park</td>
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<td><strong>No legal mechanisms requiring the province to consider IPCA proposals by Indigenous Nations or to enact interim protection measures while IPCA discussions are underway.</strong></td>
<td><strong>Requires the mutual establishment of protected areas with local Indigenous Nations.</strong></td>
<td>• Revoked “conservation areas,” “Crown land,” and “reserves.”</td>
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<td>• The province can continue to allocate tenures for resource extraction and development permits in potential or established IPCAs.</td>
<td>• Indigenous Nations can elect candidate protected areas which GNWT must consider.</td>
<td>• Te Urewera “establishment land” is vested in itself as opposed to the Crown.</td>
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<td>Legal challenges Indigenous Nations in B.C. may encounter as they establish IPCAs</td>
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<tr>
<td>GNWT must implement interim protection measures while a candidate protected area is being considered.</td>
<td><strong>No provincial mandate to establish new protected areas.</strong></td>
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<tr>
<td>GNWT and local Indigenous Nations must negotiate the terms of establishment and governance (i.e. enter into establishment agreements).</td>
<td>• Inconsistent approaches among B.C. and federal governments to IPCAs.</td>
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<td>E.g. Establishment of Thaidene Nëné supports the implementation of Treaty 1900 (Treaty 8) with the Crown and advances reconciliation.</td>
<td><em>Contains provisions for co-governance.</em></td>
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<td>E.g. Contains provisions for LKDFN economic development within Thaidene Nëné.</td>
<td>• Supports shared authority and joint decision-making with local Indigenous Nations.</td>
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<td></td>
<td>• Contains provisions for establishing co-governance boards that uphold a nation-to-nation approach to governance.</td>
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<td><strong>Centers Māori cosmology and legal traditions through attribution of legal personhood to Te Urewera with Tūhoe.</strong></td>
<td>Advances biodiversity conservation and cultural continuity.</td>
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<td></td>
<td>• Enshrines respect for Tūhoetanga (Tūhoe values and principles).</td>
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<td></td>
<td>• Upholds the relationships other iwi and hapū (tribes and sub-tribes) have with Te Urewera are upheld.</td>
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<td></td>
<td>• Supports ecological, cultural and heritage preservation of Te Urewera (i.e. conservation of biodiversity and Māori ecological systems).</td>
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<td></td>
<td><em>Established a co-governance board (Tūhoe and New Zealand Government representatives).</em></td>
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</tr>
</tbody>
</table>
| • E.g. Thaidene Nëné advances LKDFN self-governance, land protection, community well-being, cultural revitalization, and infrastructure development.  
• E.g. LKDFN’s Caribou Stewardship Plan promotes the protection of a cultural keystone species as a means of protecting Dene culture.  
• E.g. Dene law is included in Thaidene Nëné establishment agreements. | • Board membership is weighted towards Māori representation.  
• Board uses consensus-based decision making in the interests of Te Urewera.  
• Board acts in alignment with *Te Urewera Act*, the management plan, and other applicable laws. |

*Innovative management plan (Te Kawa o Te Urewera) recognizes Tūhoe governance and guardianship.*

• Māori can harvest native plants and animals in Te Urewera (with permits).  
• Tūhoe are the legal guardians of Te Urewera which formalizes their longstanding roles as *kaitiaki* (environmental caretakers).  
• Incorporates Māori law and cosmology into management principles.
5.5 Legal pluralism and Reconciliation

The past decade has seen the convergence of multiple processes, decisions, and frameworks that are favourable to Indigenous-led conservation and IPCAs in B.C. and Canada; however, a corresponding lack of legal pluralism and legislative innovations remain obstacles. Although Crown governments and the courts are advancing Crown-Indigenous relations through reconciliation mandates, court proceedings, new negotiating policies and frameworks, and legal reform vis-à-vis UNDRIP, “…law has been, and continues to be, a significant obstacle to reconciliation” (TRC, 2015, p. 202). Euro-Canadian law is central to settler colonialism in Canada and continues to trouble the prospects for decolonial legal pluralism. Crown law and the Crown’s ability to bestow, recognize, and affirm Indigenous rights and legal orders are implicated in the intractable conflicts over sovereignty and whose visions for the lands and waters prevail over others. Many Indigenous scholars and leaders challenge the state’s role arbitrating the legitimacy of Indigeneity, Indigenous Nationhood, and Indigenous initiatives (e.g. Alfred, 2005; Coulthard, 2014; Manuel, 2017; A. Simpson, 2014; L. B. Simpson, 2017). A strong form of decolonial legal pluralism decentres the supremacy of Crown law, along with its Eurocentrism, to make space for an ethical engagement of multiple Indigenous legal orders, each valid and whole.

Although legal pluralism is a rich and varied body of inquiry in legal scholarship, I situate this analysis in the subset of literature concerned with transsystemic legal approaches that work across, or weave together, Indigenous and Crown legal traditions, particularly in the context of Turtle Island/Canada. The field as a whole has been thematically central to thinking through the relationship between law and society (Merry, 1988). Illustrative of the field’s breadth, legal pluralism has been used as a frame for understanding legal approaches within sustainable development (Dancer, 2021), decolonizing international relations and global ethics (Hutchings, 2019), and social formations within globalization (von Benda-Beckmann & von Benda-Beckmann, 2006). In the context of Indigenous and Canadian legal pluralism, James (Sákéj) Youngblood Henderson (Chickasaw Nation and Cheyenne Tribe) explains,
To understand the endless flow of diversity, especially Indigenous diversity, Canadian law and political thought must accept plurality, its perspectives and its new skills. Diversity reveals what law, politics, or society might become. To accept plurality and diversity is to realize the need to reimage and remake institutions, political relationships and law itself. (2002, p. 51)

If Crown governments are serious about IPCAs advancing reconciliation, it is critical they work towards removing the legal challenges generated from within Crown law and settler colonial society. For reconciliation to be transformative and action-oriented, I argue that work at the ontological level is needed. This requires Crown governments and settler society cultivate respect for and deference to Indigenous laws and for this appreciation to be reflected in legislative and policy tools as well as political decisions. Learning about Indigenous law and legal orders is part of this necessary work.

Legal traditions, and the legal vocabulary used to define and order societies, are linked to social identity and normative claims about the world. As Willie Ermine (Sturgeon Lake First Nation) describes, contrasting Indigenous and Western “thought worlds” exist as “two solitudes with each claiming their own distinct and autonomous view of the world” (2007, p. 194). Yet, legal pluralism is a fact in Canada, and long “existed between Indigenous societies across Great Turtle Island” (Napoleon, 2019, p. 5). In transsystemic legal approaches, law is understood as dynamic, and the enactment of legal orders is shaped by colonialism’s impacts, power relations, and interpretation (Napoleon, 2019; Webber et al., 2020). While Indigenous law does not require state corroboration, in a legally pluralist society external recognition may be a corollary for Indigenous and Crown law to meaningfully interrelate. To do so, the state’s legal centrism must be sidelined in favour of a pluralistic approach in which each system interacts with the other from its own perspective (McKerracher, 2021).

Although the “intersection of Indigenous law and Canadian legal systems” is “fragile,” a theoretical opening exists between the two that is pertinent to discussions of Indigenous and Canadian law (Ermine, 2007, p. 193). In this potentially "ethical space of engagement,” multiple systems and worlds can encounter each other in ways that forge ethical partnerships (Ermine, 2007). A shared commitment to caring for the natural world, along with a corresponding shift in legislation and policy, invites partnerships and dialogue (D. Littlechild & Sutherland, 2021, p.
Applying Indigenous laws to current issues such as IPCAs helps to ensure their continuation and development. In this way law must be enacted, adapted, and revised, that is “must be worked with human hands” (Webber et al., 2020, p. 850). Thus, legal pluralism—bringing Indigenous legal orders in conversation and comparison with state law—methodologically focuses on "the challenge of how to maneuver in a normatively diverse world" (Webber et al., 2020, p. 848).

Although "plurality is an inescapable fact" (Webber et al., 2020, p. 854) of human existence in a multicultural and diverse world, how we theorize this plurality is not a given. However, from a place of openness and humility "we nevertheless have to act" (L. Borrows, 2017; Webber et al., 2020, p. 854). Val Napoleon [Saulteau First Nation/Treaty 8 territory and Gitanyow (Gitksan) House of Luuxhon, Canada (Frog) Clan] suggests that reconciliation may provide an opening by which Indigenous Peoples and allies can develop a “decolonised model of legal pluralism” (p. 4).

Given colonialism’s role in the establishment of Canadian law, it is unsurprising that many Indigenous peoples view the Canadian legal system as “diametrically opposed to their interests” (J. Borrows, 2010; TRC, 2015, p. 202). This has led to a deep mistrust held by many Indigenous Peoples and the rejection of Canadian legislation as a means of fulfilling self-governance and jurisdiction in their territories. This is especially the case given “the dark history of protected areas in Canada,” contributing to many Indigenous governments designating IPCAs under their own legal orders rather than as Crown protected areas (ICE, 2018, p. 27; Jago, 2017). Yet, as I have discussed, the strength of using both Indigenous and Crown legal orders can lead to a multiple designation approach (e.g. Thaidene Nëné and Te Urewera) that affords greater protection to IPCAs in combination with strong co-governance frameworks. In line with ICE’s recommendation for Crown and Indigenous governments to explore new or amended legislation in support of IPCAs, I believe such conversations are urgently needed along with immediate steps and concrete actions. Not only does the cultivation of legal pluralism have bearing on reconciliation, but it may also address issues of authority and governance that persist in conservation due to the jurisdictional and legal tensions discussed above. In the final section I illustrate the limitations of existing protected area legislation in Kitasoo Xai’xais territory and ways in which the Kitasoo Xai’xais Nation is advancing legal pluralism to address these deficits.
5.5.1 Authority and governance

Indigenous Nations with territories in B.C. who wish to invoke Crown protection in tandem with their own legal orders are subject to the conditions of relevant protected area legislation and the authority of provincial or federal agencies (e.g. BC Parks or Parks Canada). At best, existing protected area legislation in B.C. enables co-management with Indigenous governments, but ultimate decision-making authority rests with the Crown (typically a Minister). As mentioned, the Province of B.C., in consultation with First Nations, amended the Park Act and the Protected Areas of British Columbia Act in 2006 to include the new designation of conservancies. While conservancies legislate the strongest roles for First Nations out of all the provincial protected area designations, they still entrench the province as the final decision-maker. Conservancies do not require strong co-governance models or necessarily support Indigenous-led conservation efforts guided by Indigenous law. When co-management arrangements limit Indigenous governance to advisory roles, they stray from the spirit and intent of IPCAs by marginalizing Indigenous governance and law. These arrangements not only compromise opportunities for legal pluralism and reconciliation, but they also limit the contributions Indigenous Nations can offer to joint conservation efforts.

Although a degree of co-management between Indigenous and Crown governments exists in conservancies, Indigenous governance and authority can be limited to making recommendations to Crown agencies. As Douglas Neasloss, elected Chief Councillor of the Kitasoo Xai’xais Nation shared,

I want an opportunity for our community to sit at the table with the province as a decision-maker. If we had a strong co-governance model with the existing conservancies in our territories we wouldn’t need to consider establishing IPCAs. However, the province does not sufficiently recognize our authority in decision-making about conservancies. (2020, interview)

In Neasloss’ experience with co-managing conservancies, it is possible to achieve the Nation’s goals in low conflict and less complex matters, but when parties disagree issues are not solved collaboratively. This frustrating arrangement is unworkable for Kitasoo Xai’xais Nation who is seeking innovative governance and legal arrangements that elevate their authority and
jurisdiction. Sam Harrison, legal advisor for Kitasoo Xai’xais Nation, explains that Kitasoo Xai’xais laws apply to their whole territory including those areas the Nation is considering declaring as IPCAs. If the Province of B.C. had an IPCA designation that could adopt the Indigenous laws that already apply to the area, it would be a positive step towards achieving reconciliation through legal pluralism (Harrison, 2020, interview).

Kitasoo Xai’xais Nation is developing management plans for its territory to address the shortcomings in the provincial protected area system while fulfilling the Nation’s hereditary responsibility to apply Kitasoo Xai’xais law to protect their territories for future generations. These plans include protected areas inside and outside of the provincially designated protected areas that encompass about half of their territory. Although the Nation is best positioned to manage its territory based on its long and ongoing presence in and knowledge of the area, the province outsources management and monitoring to staff who may lack equivalent knowledge and experience. Unlike Kitasoo Xai’xais Nation’s Guardians (Watchmen), provincial staff do not have the capacity to regularly visit or work in this remote area (Neasloss, 2020, interview).

Developing management plans is one way the Nation is addressing the absence of strong co-governance models with the province, combined with the lack of IPCA legislation and Crown processes and mechanisms that engage with Indigenous law as a legitimate and authoritative legal system. In the face of these challenges, resource extraction in parts of their territory that are not protected as conservancies is an ongoing concern for Kitasoo Xai’xais Nation.

For many Indigenous Nations wishing to establish IPCAs or prevent or slow down resource extraction in their territories, tenures are significant obstacles (Youdelis et al., 2021). The Province of B.C. has issued tenures to resource extraction companies throughout most of the province without the consent of Indigenous Peoples whose territories are leased to commercial interests. Existing protected area legislation in B.C. does not require the province to work with Indigenous Nations to meaningfully recognize their IPCAs or ensure they are protected from unwanted commercial activities. Meanwhile, there are no legislative requirements for interim protection while new protected areas are being negotiated by Indigenous Nations and the Province of B.C. This means that the values, species, and relationships critical to an Indigenous Nation’s IPCA can be compromised or lost before Crown recognition or designation takes place. For example, Coastal First Nations Great Bear Initiative (CFN), a coalition of eight First Nations
including Kitasoo Xai'xais Nation, is opposed to trophy hunting in their territories, which is inconsistent with their traditional teachings and values. Although the province enacted a trophy hunting ban on grizzly bears in 2017, trophy hunting of carnivores including wolves, cougars, and wolverines is still allowed, against the wishes of CFN\textsuperscript{145} (Figure 5-4) (CFN, 2022b). Neasloss (2020, interview) describes how coming across a decapitated bear carcass from a recreational hunter when guiding ecotourism clients is upsetting and hurts their business, which is premised on wildlife viewing. As I discussed, there are precedents for legally required interim protection in Canada. When Indigenous governments in the NWT nominate new protected areas under the NWT’s Protected Areas Act, the GNWT must formally consider these proposals and enact interim protection once protected areas are being negotiated. Although predating the new legislation, interim protections enacted by the Government of Canada and the GNWT were critical to Thaidene Nëné’s successful establishment decades later. Kitasoo Xai’xais Nation’s experience further highlights the lack of provincial oversight over tenure holders.

\textsuperscript{145} In 2012, Kitasoo Xai’xais and Gitga’at First Nations collaborated with Raincoast Conservation Society to buy out a 3,500 km\textsuperscript{2} “Spirit Bear tenure,” which encompasses the habitat of the rare kermode or white “Spirit” bear (\textit{Ursus americanus kermodei}). Although killing white spirit bears is banned, black bears—who can carry the recessive gene that creates the white coated Spirit bears—could be hunted until very recently. This tenure was added to a 25,000km\textsuperscript{2} tenure that CFN and partners purchased in 2005. Raincoast Conservation Society and partners secured the purchase of additional tenures in subsequent years. By purchasing the guide outfitting tenures this coalition ensures that no hunting takes place (Raincoast Conservation Foundation, 2022). On July 1\textsuperscript{st}, 2022, the Province of B.C. enacted hunting closures over 8,158 square kilometres within Kitasoo Xai’xais and Gitga’at territories following the lobbying and negotiating efforts of both First Nations (Pitargue, 2022). Neasloss explains that “our job is to protect our territory and finally end things like this kind of bear hunt, something our cultures don’t support” (Pitargue, 2022).
Despite often having excellent staff on the ground, BC Parks is chronically underfunded which casts doubts on the agency’s ability to ensure the protection of the values conservancies purport to protect (i.e. First Nations social, ceremonial and cultural uses, and ecological values) (Neasloss, 2020, interview). As Neasloss explained, Kitasoo Xai’xais Nation has had to expend valuable time and resources fighting the province to enact a moratorium on trophy bear hunting in conservancies in their territory. Further, the community had to engage in a lengthy and bureaucratic process with the province to enact special cultural management zones to protect sacred cultural sites in conservancies (including contributing to over 60 drafts of a management plan). The community advocated for targeted management measures after finding evidence that grave robbers had plundered burial boxes many hundreds of years old. This desecration traumatized community members and violated Kitasoo Xai’xais law that dictates strict conditions under which burial sites can be visited. Meanwhile, the province distributes permits for commercial operators and ostensibly manages recreationists in conservancies in Kitasoo Xai’xais’ territories under B.C.’s laws. Since the province prevented the Nation from including some of its own laws into the park permitting process for conservancies, the Nation developed its own permitting process which it administers in parallel to the provincial process. For example,
the Nation requires all commercial operators in its territory to enter into protocol agreements with the Nation which stipulate expectations for respectful behaviour (Neasloss, 2020, interview). To address the province’s lack of monitoring and enforcement within their co-managed conservancies, the Kitasoo Xai’xais Nation developed its Guardian program in which it provides community members with training similar to BC Parks and Fisheries and Oceans Canada staff. As of June 2022, BC Parks will begin to recognize Kitasoo Xai’xais Guardians as having Park Ranger authorities under the *Park Act* and the *Ecological Reserve Act* (CFN, 2022a).

In June 2022, Kitasoo Xai’xais Nation declared Gitdisdzu Lugyeks (Kitasu Bay) a MPA under Kitasoo Xai’xais law (Gilpin, 2022). The declaration includes a 33.5 km² marine protection zone near Laredo Sound in Kitasoo Xai’xais’ traditional territories. Kitasoo Xai’xais Nation has been defending Gitdisdzu Lugyeks, a culturally important place critical for community food security, for over 30 years and has restricted commercial activities in the area (Neasloss, 2020, interview). The Nation is exercising its inherent and constitutional rights and responsibilities in part by developing a management plan for the area founded on Kitasoo Xai’xais laws, values, and ethics. The Nation’s decision to declare a MPA is a response to the absence of adequate (and collaborative) Crown designations and management plans. Although the terrestrial area surrounding Gitdisdzu Lugyeks is protected as a conservancy under provincial legislation (Kitasoo Spirit Bear Conservancy), fish and fish habitat—which are critically important to the Nation—fall under federal jurisdiction and are not protected. Similarly, marine transportation, which affects the marine environment, falls under federal jurisdiction and is therefore also beyond the scope of the Nation’s co-management of the conservancy with the province. As discussed, the conservancy model does not meet the Nation’s expectations while the Government of Canada has not taken definitive steps to co-designate Kitasu Bay as a marine protected area under federal legislation with Kitasoo Xai’xais Nation. While the Nation is open to co-designating Kitasu Bay as a marine protected area with DFO—under a strong co-governance model that includes Kitasoo Xai’xais laws—this process could take years to establish (Neasloss, 2020, interview). In the meantime, Kitasu Bay, the community’s “breadbasket,” is vulnerable to over-fishing by commercial fishers regulated by federal permitting system (Neasloss, 2020, interview).
For the community, the marine and terrestrial environments are part of an integrated ecosystem where Kitasoo Xai’xais law applies. Kitasoo Xai’xais Nation’s efforts, like many Indigenous Nations across the province and country who are declaring IPCAs, are examples of creative governance solutions that address the limitations in current protected area frameworks and legislation. Nevertheless, opportunities exist to supersede the issues the Nation has experienced with conservancies through legal innovations (i.e. dual authorities and laws) and legislative reform. As Neasloss explains,

Despite having practiced our laws for thousands of years there is no way to meaningfully integrate Kitasoo Xai’xais laws into current legislative and co-management processes. There are opportunities to advance reconciliation with B.C. and Canada, but a number of things first have to change. (2020, interview)

As described in the draft management plan for Gitdisdzu Lupyterks, the Nation’s establishment of the MPA is “an important step toward advancing Indigenous-led conservation” and ensures respectful stewardship based on ecosystem-based management combined with Indigenous knowledge and laws (KXSA, 2022a, p. iii).

5.6 Conclusion

Law is a critical, but often overlooked, dimension through which territories claimed by both the Crown and Indigenous Peoples are contested with respect to conservation. Indigenous Nations use their own legal orders to govern their territories and do not need state recognition of their IPCAs under Crown law. Further, Indigenous Nations do not necessarily benefit from Crown protected area designations, particularly because most existing frameworks do not enable strong co-governance, let alone ensure the FPIC of Indigenous Peoples. However, as I have discussed, there are advantages to legally pluralistic approaches to IPCA protection, especially considering the ubiquitous threats of resource extraction. Because Indigenous Nations typically pursue IPCAs to restore or protect values or relationships outside the purview of existing protected area legislation, legal innovations and new legislative tools are needed. The Province of B.C., like most jurisdictions in Canada, has not enacted new, or amended existing protected area legislation or specialized regulations, to include IPCAs and mechanisms that protect Indigenous governance, or enable strong co-governance models. This may change considering
the new provincial DRIPA legislation requiring the province to align its legislation with the principles of UNDRIP, including Articles directly relevant to conservation and legislative development. Additionally, various social, political, and legal movements are cultivating greater awareness of and receptivity towards IPCAs, which are likely to become increasingly widespread. Pursuing a multiple designation approach to IPCA establishment using Indigenous and Crown laws can be strategic given ongoing jurisdictional conflicts and the Crown’s tenure system. However, I caution that designating IPCAs under Crown law could undermine the “Indigenous-led” nature of IPCAs unless accompanied by strong Indigenous or co-governance arrangements grounded in Indigenous law.

Crown governments can support IPCAs by engaging in a collaborative process with Indigenous Nations to discuss legislative reform as well as by respecting Indigenous legal orders. This would respond to one of ICE’s recommendations as well as one of the TRC’s calls to reconcile Crown and Indigenous law. Legal innovations, such as decolonial legal pluralism and legislative reform, can elevate Indigenous authority and governance. They can also recognize non-human life as sentient and autonomous agents in ecosystems, of which humans are just a part, and establish management objectives based on relational worldviews and Indigenous law. Using the NWT’s Protected Areas Act, and Aotearoa New Zealand’s Te Urewera Act, 2014 as examples, I demonstrated the feasibility of legislative innovation and the benefits of legally pluralistic approaches. If IPCAs are to be afforded long-term protection and contribute to reconciliation, legal pluralism and legislative reform are urgently needed. The key supportive elements in the NWT Protected Areas Act include first and foremost the fact that the legislation was developed collaboratively with Indigenous Nations. The act enables both co-establishment and co-governance (Crown-Indigenous) of protected areas, and approaches biodiversity conservation through a cultural lens as evidenced in Thaidene Nëné. Meanwhile, Te Urewera Act, 2014 is exemplary for the settlement process that gave rise to the legislation and for bestowing legal personhood to Te Urewera while centering Māori cosmology. The legislation enables Māori governance and guardianship through a strong co-governance board. Both acts illuminate how—when Indigenous law and authority are enacted through Indigenous governance or strong co-governance models—the reconciliatory potential of conservation can be realized.
6 Conclusions

In this study I investigate Indigenous Protected and Conserved Areas (IPCAs) as potentially transformative interventions into mainstream conservation and as processes of reconciliation. Drawing on political ecology, critical engagements with reconciliation, and qualitative research, I analyze how IPCAs can refuse settler colonial ideologies—including but not limited to those advanced by Eurocentric conservation—while being simultaneously constrained by practices and policies generated through settler colonialism. As Indigenous-led initiatives, IPCAs do not require Crown recognition, support, or funding, and Indigenous Nations and communities\textsuperscript{146} decide whether or not to enter into partnerships with government agencies, conservation organizations, or other actors to collaborate on aspects of their IPCAs. As I have discussed, regardless of the approach a Nation takes, IPCAs can be supported or hindered by actors with various interests and positions. Building on insights from the literature, key informant interviews, webinars, participant observation, and engagements with the Conservation through Reconciliation Partnership (CRP), I discuss possibilities for reconciliatory efforts by Crown governments and the conservation sector. I maintain that if these groups respond favourably to IPCAs, and appropriately support the Indigenous Nations advancing them, then IPCAs have the potential to be pathways of reconciliation. However, reconciliation must be a transformative process and not a performative gesture, and—given the propensity for ongoing injustice and oppression—is a continual journey rather than an end point. Therefore, IPCAs necessitate deep and lasting changes in mainstream society if they are to advance reconciliation. To bring about a “paradigm shift in conservation,” ontological shifts that alter prevailing perceptions about human-environment relations, and consequently conservation, are needed as well as changes at organizational and systemic levels (ICE, 2018, p. 8). In this concluding

\textsuperscript{146} As per earlier chapters, henceforth, I refer to “Indigenous Nations” in an encompassing way that includes Indigenous Nations, communities, and governments across Turtle Island/Canada. While the term “Indigenous” is inclusive of First Nations, Métis, and Inuit, I note that some Inuit and Métis communities prefer language that reflects a distinction-based approach (i.e. not being lumped into “Indigenous Nations/Peoples). When referring to specific Indigenous Nations I adopt their preferred naming conventions where known.
chapter I reflect on the key findings and insights of this study, the contributions and limitations of the research, as well as future directions.

6.1 Key Findings and Insights

6.1.1 Motivations for establishing IPCAs

Indigenous Nations may pursue IPCAs for a variety of reasons including to advance ecological, political, cultural, and socio-economic goals (ICE, 2018; Tran, Ban, et al., 2020). Although Indigenous Peoples have often been in relationship with their territories for millennia, and the concept of Tribal Parks has been around since the 1980s in British Columbia (B.C.), the concept of “IPCAs” and their rising popularity in Turtle Island/Canada\textsuperscript{147} is a recent phenomenon. IPCAs are modern adaptations to current circumstances based on the enduring principles, values, and philosophies encompassed in many Indigenous cosmologies. These cosmologies tend to advance relational understandings of humanity’s place in the world where reciprocity and abundance are valued over commodification and extraction. Yet, IPCAs may encompass economic development initiatives consistent with a conservation economy including ecotourism, small-scale resource extraction or renewable energy, and carbon offsets (ICE, 2018). This reflects a conservation paradigm that incorporates community well-being and economic prosperity alongside ecological protection. Similarly, cultural revitalization and protection, and upholding Indigenous laws, are a cornerstone of many IPCAs (Tran, Ban, et al., 2020) such as Dasiqox Nexwagweẑʔan (Dasiqox Tribal Park Initiative, 2021b; Youdelis et al., 2021) and Kitasoo Xai’xais Protected Areas (Tran, Neasloss, et al., 2020). Because IPCAs are flexible concepts oriented around Indigenous leadership, knowledge, and legal systems, they are being

\textsuperscript{147} In an effort to decolonize language and geographical place names I use the name of the Indigenous territory or treaty number first followed by the English name. Turtle Island is often used to refer to North America, thus, when referring to Turtle Island I specify whether I mean North America or Canada. The name Turtle Island originates from a creation story about Sky Woman who falls from the sky and is offered sanctuary on a turtle’s back upon which the world is built. This story originates from Anishinaabe and Haudenosaunee peoples of the Great Lakes. While Turtle Island is not a pan-Indigenous name for North America or Canada (a multitude or creation stories exist throughout Turtle Island) it is quite widely used, including in some conservation circles. I use it here to challenge the primacy of the Canadian state as the supposedly undisputed sovereign Nation with sole authority to govern the lands and waters that came to be known as Canada.
mobilized in different ways to different ends by Indigenous Peoples. This is reflected in the diversity of IPCAs emerging across the country as well as the diversity of Indigenous Peoples in Turtle Island/Canada.

A common theme for IPCA establishment is the fulfillment of responsibilities to culture, land, and community while advancing visions of Indigenous futurities. Indigenous Nations often establish (or consider establishing) IPCAs in the face of externally driven resource extraction and development pressures and the inadequacies of existing environmental governance processes (Chapters 3 to 5) and legal tools (Chapter 5). Since IPCAs can challenge development projects and resource tenures approved by Crown governments, they can be perceived as economic threats thus eliciting conditional support from governments and stakeholders (i.e. supported when convenient and undermined when too disruptive). When Crown governments advance economic interests despite the opposition of Indigenous Nations they maintain the status quo while ignoring their own reconciliation frameworks. Through a “politics of recognition” (Coulthard, 2014, p. 3) reflected in funding decisions, Crown governments, environmental non-governmental organizations (ENGOs), and other stakeholders can assert an array of colonial influences that limit the transformative potential of IPCAs. This tension points to one of the paradoxes of IPCAs. Since they are Indigenous-led and do not require establishment under Crown legislation, they are not afforded the same assurances available to mainstream protected area designations that limit Indigenous governance. This double-bind is a sticking point for reconciliation and reveals the underlying jurisdictional conflicts that colonialism invoked, and treaties generally did not resolve, in large part because they were not properly implemented (MacDonald, 2020; McDermott & Roth, Forthcoming).

These industrial, political, and legal tensions, combined with a perceived failure of Crown governments to balance economic and ecological priorities, are motivating many Indigenous Nations to seize the current political opening IPCAs present (Chapters 3 to 5). The national mandate to meet domestic and international biodiversity targets by establishing new protected areas while advancing reconciliation has created a space in conservation policy and practice which many Indigenous Nations are mobilizing to meet their goals (biodivcanada, n.d., n.d.; CBD, 2020b; ECCC, 2020b; Pathway to Canada Target 1, n.d.). To the Nations establishing them, IPCAs may be acts of resurgence (e.g. of cultural revitalization and self-determination),
generative expressions of refusal (e.g. of state recognition or resistance to development agendas), and expressions of Indigenous governance, jurisdiction, and authority (e.g. advancing Indigenous rights and new political configurations with the state). Some Indigenous Nations see IPCAs as processes that could advance reconciliation through collaboration, strong co-governance, and legal pluralism (e.g. Kitasoo Xai’xais Protected Areas and Thaidene Nëné). These motivations, combined with the relational basis of IPCAs that emphasize kincentricity (over, for example, management units), demonstrate that the significance and potential of IPCAs are much greater than merely “Indigenous-led” parks.

Although the Indigenous Circle of Experts’ (ICE’s) definition of IPCAs (i.e. Indigenous-led, advancing Indigenous rights and responsibilities, and committing to long-term protection) is gaining currency in Turtle Island/Canada, Indigenous Nations are mobilizing IPCAs in culturally relevant and locally appropriate ways. Both the presence and lack of treaties can provide impetus for IPCAs. For the Lutsel K’e Dene First Nation, the establishment of Thaidene Nëné in the Northwest Territories (NWT) supports the fulfillment of outstanding obligations outlined in the Treaty of 1900 (Treaty 8). In B.C., where there are far fewer treaties, but reconciliation agreements are increasingly common, the Kitasoo Xai’xais Nation sees IPCAs as one way of advancing reconciliation while reducing uncertainty for communities as well as for the Crown. The Dasiqox Nexwagweʔan Initiative see their IPA as consistent with the principles outlined in their tripartite reconciliation agreement with B.C. and Canada and the expression of Tsilhqot’in title and governance—irrespective of where the Supreme Court of Canada recognized their title (i.e. only in a portion of their territory). The adaptability of IPCAs as a tool of Indigenous governance is enabled in large part because they are established under Indigenous laws and do not require Crown legal recognition (Chapter 5). To date, the federal government has accepted ICE’s definition of IPCAs but has done little to regulate or legislate them, which has advantages and disadvantages for Indigenous Nations. Meanwhile, if Crown governments focus predominantly on the ability of IPCAs to advance Canadian conservation targets without attending to changing relationships and systems, the reconciliatory potential of IPCA may not be realized, and Indigenous governance could be undermined. To avoid this trajectory, Crown governments and the conservation sector can support the priorities of Indigenous Nations alongside the Crown’s area-based conservation targets.
6.1.2 IPCAs as interventions into dominant modes of environmental governance

Some of the galvanizing circumstances out of which IPCAs are evolving include settler colonial culture, practices, and policies that undermine Indigenous rights, governance, and jurisdiction (e.g. in conservation, land use planning, species at risk management, and environmental assessment). Though distinct from state-led planning processes (Chapter 3), IPCAs are interrelated with Indigenous-led planning and conservation (ICE, 2018). Unlike state-led land use planning processes that have presented numerous limitations for Indigenous Peoples in Turtle Island/Canada—despite being influential mechanisms of environmental governance—IPCs flow from Indigenous governance, rights and responsibilities as expressed by the Indigenous Nations establishing and protecting them. Nations have engaged in planning to participate in decision-making in their territories, despite these processes promoting Eurocentric methodologies and ideologies. In many land use planning processes, Crown governments and ENGOs, failed to adequately engage Indigenous Nations, while others coerced Indigenous consent for development agendas as trade-offs with conservation (Chapter 3). To participate in land use planning processes in their territories, where opportunities existed, Indigenous Nations have often had to accept the terms of participation and the scope of discussion outlined by Crown governments, or even by stakeholders like ENGOs and logging companies. Alternatively, Indigenous Nations have had to exert tremendous energy to reorient these processes to better reflect their needs and priorities.

My analysis of ENGO and Crown roles in three prominent land use planning processes that variously engaged Indigenous Peoples reveals a cautionary tale. Crown governments and the conservation sector have often failed to implement best practices and guidance from domestic and international policies and instruments, or to build on strong examples of collaboration and government-to-government processes (Chapter 3). Consequently, this raises concerns about whether and how Crown governments and the conservation sector will support IPCAs, fulfill ICE’s recommendations, and advance reconciliation. Crown governments and ENGOs risk intentionally or inadvertently coopting IPCAs to advance their own agendas, for example through conditional support or funding. Past processes suggest this is more likely to take place under perceived crisis conditions or if support for IPCAs is contingent on Indigenous Nations
fulfilling externally imposed conditions. In the planning processes I examined affiliated with the Great Bear Rainforest (GBR) Agreement, Canadian Boreal Forest Agreement (CBFA), and Ontario’s *Far North Act, 2010*, many First Nations faced capacity and perceived legitimacy issues where their governance, jurisdiction, and authority were undermined. Many of the same challenges exist for Indigenous Nations advancing IPCAs, even as IPCAs present alternative governance pathways to state-led planning processes.

IPCAs challenge normative assumptions in Turtle Island/Canada about environmental governance being Crown-led with Indigenous governance being largely advisory. While some degree of co-management between Crown and Indigenous governments exists in many parks and protected areas across the country, these often fall short of Indigenous aspirations as in the case of conservancies in Kitasoo Xai’xais’ territory (Chapter 5). IPCAs are generating new models of collaborative governance that surpass the documented shortcomings of many co-management arrangements. For example, Thaidene Nëné—enabled by the leadership of the Lutsel K’e Dene First Nation (LKDFN), a willingness of Crown governments to delegate and share governance and authority, legislation in the NWT, and the fundraising support of conservation organizations—exemplifies a strong co-governance model. According to LKDFN leaders, Thaidene Nëné has the potential to fulfill outstanding commitments under the Treaty of 1900 (Treaty 8) and advance reconciliation (Chapter 5). In this way, IPCAs can bring together diverse actors to collaborate on governance and support the capacity of Indigenous Nations to fulfill their visions for their lands and waters. Since board members overseeing Thaidene Nëné must relinquish their organizational interests and “speak for Thaidene Nëné,” Lutsel K’e Dënesųłíné ontology, which emphasizes respectful relationships with the lands and waters, takes precedence over Eurocentric and managerial approaches. In this way, Thaidene Nëné also supports an expanded definition of reconciliation that includes the restoration and maintenance of good relationships—human or otherwise.

### 6.1.3 IPCAs and articulations with reconciliation

In order for IPCAs to be pathways of reconciliation, the numerous challenges originating in settler colonial culture must be appropriately addressed by Crown governments and the conservation sector. Some of the main challenges Indigenous Nations establishing and protecting
IPCAs face are resource and energy extraction (e.g., forestry, mining and oil and gas development) and infrastructure development (e.g., pipelines), law and legislation, financing, relationships and capacity, and jurisdiction and governance issues. These interconnected challenges are pragmatic and ontological in nature. On a practical level, organizational and systemic changes are much needed such as legal innovations and interim protection measures (Chapter 5). However, to bring about deeper levels of transformative change it is necessary to address the root ideologies, worldviews, value systems, and imperatives underlying dominant practices, policies, and institutions. Reconciliation requires the transformation of Eurocentric ideologies that perpetuate racism and colonialism and the dominance over nature (Chapter 4). These ideologies have had harmful consequences for Indigenous and racialized peoples and the environment, for example by perpetuating discourses of separation and superiority. A tension running through all these roadblocks is related to jurisdictional and governance challenges stemming from assumed Crown sovereignty over pre-existing Indigenous sovereignties. How settler society responds to these challenges matters profoundly to reconciliation as a healing and restorative process as well as to our collective and intertwined ecological futures. I have suggested various ways in which this could unfold, for example by reflecting on insights from past land use planning processes (Chapter 3), addressing various obstacles (Chapter 4), and cultivating decolonial legal pluralism and engaging in legislative reform with Indigenous Peoples (Chapter 5).

Partnerships, alliances, and collaborations that respond to the requests and needs of Indigenous Nations have the potential to advance IPCAs and reconciliation. Supporting Indigenous leadership is paramount to advancing reconciliation through IPCAs, in part through addressing the capacity issues ICE (2018) has drawn attention to (Chapters 3 and 4). Relevant roles for the conservation sector and Crown governments vary among Indigenous Nations, communities, and IPCAs and must respond to the preferences of individual Nations in addition to heeding ICE’s recommendations as a guiding framework. Appropriate actions could include supporting capacity within Indigenous Nations, recognizing that wealth and resources are unequally distributed as a result of colonialism. This entails ensuring Nations have the necessary capacity to advance their visions for IPCAs or to participate in parallel processes (e.g. the establishment of new or amended legislation) without external actors using funding as a tool to
influence IPCAs. ENGOs can leverage their influence to support Indigenous capacity and leadership both in process (e.g. planning for and establishing IPCAs) and implementation (e.g. operating costs). Depending on the preference of Indigenous Nations, this could entail fundraising, market-based interventions (e.g. campaigns to pressure consumer behaviour and industry or the development of carbon offsets), responding to specific requests, and supporting Guardians. Crown governments can fulfil treaty responsibilities, negotiate reconciliation or other agreements with Indigenous Nations, enact interim protection measures, collaborate on and fund Indigenous leadership in species at risk processes (especially cultural keystone species), and continue to fund IPCAs, Indigenous-led conservation, and Guardians. Researchers can contribute time and expertise to investigate topics of interest or create resources identified by Indigenous Nations. Decolonial and Indigenous-led research collaborations like the CRP can be knowledge intermediaries that bring together actors across sectors to identify and advance common goals. In these ways, IPCAs can convene diverse actors to support Indigenous governance, become more knowledgeable about the ongoing impacts of colonialism, cultivate respect for Indigenous knowledge and legal systems, and generate alternate visions for decolonial and reconciliation futures.

Though IPCAs have the potential to foster beneficial collaborations, there is also a real risk that IPCAs could be instrumentalized and coopted by Crown governments, the conservation sector, and other actors through funding as well inadequate or conditional support for Indigenous Nations and IPCAs. While the Government of Canada’s investments into IPCAs are significant and welcome, Crown funding could become a form of “substance-free reconciliation” (Jewell & Mosby, 2021, p. 10) while more impactful and supportive (and potentially costly, challenging, and risky) actions are avoided. While external funding can be a critically supportive factor in IPCA establishment and governance, there is a risk that the depoliticization of conservation and funding can make both appear consistent with reconciliation. When this happens, Crown governments and other actors could capture the concept of IPCAs and ultimately benefit more from them than the Indigenous Nations leading them. If IPCAs are chronically underfunded by Crown governments (a likely scenario), then any perceived failures of IPCAs could be construed as the result of deficiencies on the part of the Indigenous Nations leading them, rather than reflective of external factors outside the control of most Nations. Crown governments and other
actors may be reluctant or constrained when it comes to implementing measures that would support IPCAs such as deferring or purchasing tenures, developing new legislation and legal approaches, and delegating governance and authority to Indigenous Nations in line with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and other reconciliatory mandates (Chapter 4). Further, the Crown’s support for IPCAs is evidence of the Crown downloading environmental responsibilities they have failed to uphold to Indigenous Nations without ensuring Nations have corresponding resources to do so.

Reconciliation is a relational process involving repair and reconfiguration at the intersocietal level (among Indigenous and settler populations) and interspecies/ecosystem levels (with the planet). Speaking about conservation within an Anishinaabek/Neshnabék context, Kyle Whyte (Potawatomi; 2017, p. 214) encourages “multispecies engagements” that cultivate relational accountability and support an understanding of sharing places. Establishing fair, ethical, and supportive relationships with Indigenous Nations that respect their governance and self-determination—even where goals diverge—is key to building relationships that advance reconciliation. ICE recommends developing capacity for, and adopting, Ethical Space and Two Eyed Seeing as frameworks for building respectful cross-cultural relationships that advance Indigenous-led conservation. A growing number of domestic and international frameworks, instruments, and guidance outline ethical practices that support reconciliation. These include UNDRIP and associated legislation, Truth and Reconciliation Commission (TRC) Calls to Action, ICE recommendations, court decisions, the Recognition and Reconciliation of Rights Policy, as well as treaties and reconciliation agreements among Crown and Indigenous governments. Despite these strong foundations, there is still a propensity for the conservation sector and Crown governments, as well as settler society at large, to disregard these directives. In turn, this contributes to the kinds of futures we are laying the groundwork for today even as rhetoric advancing reconciliation becomes more widespread.

6.1.4 IPCAs and Indigenous and decolonial futurities

IPCAs are flexible, emergent tools that Indigenous Nations can tailor to their own goals and territories to advance and protect Indigenous sovereignty, priorities, practices, and relationships that ultimately promote ecological futures. As Clint Carroll (Cherokee; 2014, p. 27)
explains, tribal parks (a type of IPCA) “advance decolonial agendas” and "carve out critical spaces in which to foster the perpetuation of Indigenous land-based practices, and, in turn, offer unique contributions to North American environmentalism” (p. 38). Carroll refers to tribal parks as a form of “indigenous territoriality” where a reclamation of space “is a counter-reaction to settler colonial territorialization, as it enables the perpetuation of land-based practices and beliefs that are considered central to many Indigenous worldviews” (p. 38). I argue that the onus for reconciliation is on settler society. Thus, it follows that if Crown governments and the conservation sector contribute to the conditions that support the Indigenous and decolonial futurities that IPCAs advance, reconciliatory futures may also be built. Vanessa De Oliveira Andreotti et al. (unmarked; 2019, p. 405) invite us to consider, “what is being demanded of us if we wish to interrupt the hegemony of Western futurities that not only foreclose possibilities for Indigenous existence but also threaten the continued existence of all lives on our shared planet.”

Futurity signals a temporality infused with power, inequality, practices, structures, and discourses that “ensure and envision a future for settlers” (Hickey, 2019, p. 166). Since the future is foreshadowed in the present, the persistence of settler-colonial futurity is commensurate with climate catastrophes and ongoing extinctions perpetuated through colonial and capitalist logics including the commodification and privatization of land and “resources.” Here again, IPCAs present alternative futurities to ecologically devastated futures that may appear inevitable.

IPCAs destabilize the presumed inevitability of settler colonial futurity and offer an alternative framing of an ecological solution that mainstream parks and protected areas often fail to address. Settler colonialism, in collaboration with global modernity’s influences, is “rendering unintelligible different possible articulations of well-being and prosperity” (de Oliveira Andreotti et al., 2019, p. 401). The futurity that modernity constructs is based on exceptionalism, universalism, and benevolence even as it obscures the ways in which it structures the winners and losers, notably Indigenous Peoples, their knowledge systems, and their lands (de Oliveira Andreotti et al., 2019). The notion that humans are competitive, individualistic, and incapable of collectively caring for the commons is at the heart of many resource management philosophies, despite being widely disputed (T. Dietz et al., 2002). These overly generalized yet commonplace understandings of human nature have become so naturalized in Canadian culture that they obscure alternate futures and the means to cultivate them. The belief that humans are greedy and
motivated by self-interest supports the rationale for parks and protected areas that enclose nature to protect it from presumably inevitable destruction. From that vantage point eradicating or significantly limiting human encounters—particularly of the livelihood kind—makes sense. IPCAs call these environmental orthodoxies into question by orienting around Indigenous ontologies that value interdependence, reciprocity, sharing, and sacredness of all life.

Recognizing our entanglements and the ways in which modernity has implicated people and the planet in extractive systems of commodification and accumulation is key to assuming greater relational accountability so needed for reconciliation. In this way, IPCAs draw attention to Indigenous teachings for living in balance with the Earth, potentially serving as “beacons of teachings” and reminding us that different ways of relating to each other, the land, and the economy are possible (ICE, 2018, p. 47). As Winona LaDuke (Anishinaabe) and Deborah Cowen (settler, Treaty 13, and Dish with One Spoon territory) propose, despite the severity of the situation, the future is not foreclosed…In Anishinaabe prophecy, this is the moment of choice, when two paths open before us. We are told there is one path that is well worn but scorched, the second green. The question is how to move off the scorched path. (2020, p. 244).

By imagining futures as radically open to possibility, IPCAs can help us envision symbiotic entanglements of people, species, and places that nourish ecologically abundant futures as well as relationships founded in respect, repair, and accountability.

6.1.5 Advancing a decolonial political ecology

Political ecologists have much to gain by engaging with IPCAs and Indigenous-led conservation in Turtle Island/Canada, an emerging and underexamined area of study. Investigating how local and Indigenous Peoples’ livelihoods and environments are disrupted by conservation enclosures, as well as state-led and neoliberal forms of conservation, are strong areas of inquiry in political ecology, particularly in the Global South. Political ecologists offer astute analyses of how modernity and enduring Enlightenment values have shaped mainstream conservation and have raised important questions about the construction and deployment of environmental knowledge. Yet, political ecologists can deepen and expand their insights into conservation governance by paying closer attention to Indigenous approaches to ecological
governance, and Indigenous articulations of responsibilities to lands, water, and all relations. Although political ecologists often engage with Indigenous ontologies and epistemologies, these are typically not the place from which political ecologists orient their research. In part this is because there are still few Indigenous political ecologists working within the academy and political ecologists often miss opportunities to co-produce knowledge with research subjects or to amplify Indigenous perspectives. Yet, Indigenous Peoples have long articulated relationships and responsibilities and corresponding governance and legal systems rooted in the places that political ecologists study. This is particularly pertinent in a Turtle Island/Canadian context in which Indigenous-led conservation is rapidly expanding. Thus political ecologists can continue to move beyond critiques of conservation enclosures to an understanding of conservation that values multispecies relationships over borders (Tran, Neasloss, et al., 2020). By respectfully engaging with Indigenous epistemologies through community-engaged research partnerships, political ecologists can support Indigenous priorities, and co-produce knowledge with greater local relevance.

Political ecologists also have much to contribute to the advancement of decolonial political ecology by engaging with IPCAs and Indigenous-led conservation in Turtle Island/Canada. One of political ecology’s core tenets is a concern with justice, exemplified in the varied and impactful work of political ecologists around the globe. As discussed, however, this concern has not been reflected as much in the research agendas of political ecologists who tend to look past Turtle Island/North America. North American political ecologists continue to advance insightful work with community partners in Latin America, Africa, and Asia while missing opportunities—and calls—to bring political ecology’s focus to the Global North and ameliorate settler-Indigenous relations at home (Carroll, 2014; McCarthy, 2005; Robbins, 2002; TRC, 2015). By supporting the goals of Indigenous Nations, communities, and organizations through community-engaged research (where agreeable), and research partnerships with Indigenous scholars and institutions, the scope of political ecology can be expanded to Turtle Island/North America. Political ecologists can contribute to decolonial political ecological work and the co-production of knowledge to advance the goals and respond to the needs of Indigenous Nations in our provinces, territories, and states. This is critical if we are to respond to calls from within political ecology to train our gaze to the dynamics where we live, work, learn, and teach.
The field of political ecology stands to benefit from these engagements by advancing new analyses and insights. Political ecology’s tools and approaches are well suited to advance critical understandings of environmental conflicts and tensions running through conservation and planning—as well as other modes of environmental governance—in Turtle Island/North America. In particular, political ecologists are well positioned to analyze the interlocking dynamics of settler colonialism and environmental governance, relations, and knowledge systems. In turn, these insights can be applied to ameliorating relationships among settler society and Indigenous Peoples, and between all peoples and the planet. Political ecologists can advance a decolonial political ecology by interrogating environmental discourses, policies, laws, and processes that are entangled with settler colonialism and affect prospects for reconciliation, a central political issue in Turtle Island/North America.

Placing the interests of political ecology into conversation with Indigenous scholars and knowledge holders thinking about settler-Indigenous relations in a Turtle Island/North American context helps advance a decolonial, and consequently more personally accountable, political ecology. Situating ourselves within the systems and processes we are interrogating is consistent with feminist calls from within political ecology and Indigenous methodologies (Cantor et al., 2018; Kovach, 2009; Rocheleau & Nirmal, 2015; Rocheleau & Roth, 2007). For example, when locating and interrogating the effects of settler colonialism in conservation and the emergence of IPCAs, it implicates me in the system I am scrutinizing. In this way, political ecologists can apply ethics of reflexivity and relational accountability to community-engaged research consistent with the motivations of feminist and decolonial political ecology as well as Indigenous and decolonizing methodologies. In order to advance possibilities for transformative reconciliation, it is incumbent on the beneficiaries of colonization to support local, institutional, and ultimately systemic changes that enable the resurgence of Indigenous governance be it through IPCAs or other means in the territories we have come to share (Craft & Regan, 2020; D. B. Littlechild et al., 2021; TRC, 2015). Political ecologists can contribute to this process while co-producing relevant research with community partners and Indigenous and decolonial scholars. Thus, political ecology can live up to claims of being both a seed (envisioning alternatives) and a
hatchet (a tool of critique and deconstruction) thereby facilitating decolonial, and ultimately reconciliatory, futures.

6.2 Contributions

By engaging with IPCAs as potential interventions into mainstream conservation, I have grappled with prominent claims circulating within the conservation sector and Crown governments about the compatibility of conservation, reconciliation, and IPCAs. I have teased out the messy, troubling, and exciting aspects of reconciliation and identified some of the critical work that needs to be done in order to advance reconciliation. I have shown how IPCAs are a microcosm reflecting systemic issues at play in Canadian society at large that impede reconciliation. These include persistent conflicts over jurisdiction and governance rooted in multiple sovereignties that continue to co-exist in Turtle Island/Canada today. As Indigenous Nations blend novel approaches with enduring cultural principles by establishing and protecting IPCAs, they are likely to encounter a host of obstacles arising from settler-colonial ideologies and practices. Though not insurmountable, these hurdles reflect the pragmatic, systemic, and ontological effects of the dominant culture, legal practices, modes of governance, and knowledge systems that assert themselves at the same time they are challenged by Indigenous and decolonial alternatives. By investigating these obstacles I attend to ongoing articulations of settler colonialism with an intent of outlining the types and extent of changes required to advance reconciliation while contributing to an emerging decolonial political ecology.

This study contributes to an emerging body of decolonial political ecology scholarship that focuses on Turtle Island/Canada. By “looking near and up,” I am responding to calls from within political ecology to attend to power relations and systemic oppression in ecological contexts in the Global North (Robbins, 2002, p. 1510). This reflects an important turn in political ecology which has predominantly focused on the Global South, despite much of the scholarship originating in the Global North and many of the same forces at play in both contexts. I conducted this community-engaged research in collaboration with Kitasoo Xai’xais Stewardship Authority (Kitasoo Xai’xais Nation) and the Dasiqox Nexwagwež?an Initiative (Tsilhqot’in communities of Xeni Gwet’in and Yunesit’in). This study also responds to the TRC’s Call to Action 65 to undertake research that fosters understandings of reconciliation in partnership with Indigenous
Peoples as well as calls from Indigenous scholars to undertake reconciliation research (D. B. Littlechild et al., 2021; McGregor, 2017; TRC, 2015, p. 242; Wilson et al., 2019). Through this research I also take up ICE’s recommendation (#25) to establish partnerships with Indigenous governments that advance research that supports IPCAs. While it is increasingly understood that conservation has been colonial, it is unclear how conservation can be reconciliatory, especially given the ample critiques of reconciliation. In this study I engaged key frameworks, guidelines, recommendations central to reconciliation to understand how the advancement of IPCAs could be reconciliatory and if so under what conditions.

By examining the political, legal, economic, and relational tensions that animate the nexus of conservation and reconciliation, with attention to past processes, potential pitfalls, and possible futurities, I make various contributions that begin to address some of these needs. I do so by bringing the insights of political ecology into conversation with the rich contributions of Indigenous and decolonial scholars, leaders, and community members, who theorize about reconciliation, decolonization, and Indigenous resurgence. While few political ecological studies have focused on the colonial politics of conservation in Turtle Island/Canada (e.g. Carroll, 2014; Nakoochee, 2018; Youdelis et al., 2020, 2021), the critical reconciliation literature infrequently addresses conservation. While simultaneously engaging these disparate bodies of work, I am able to advance critical understandings of reconciliation through conservation and conservation through reconciliation. In addition to engaging with critiques of conservation and reconciliation, I look to generative ruptures, innovative examples, and alternative environmental trajectories. Following the wisdom of Indigenous and relational ontologies, I call for modes of environmental governance and economic production that are gentler on the planet while fostering more equitable relations among Indigenous Peoples and Canadian society.

Practically speaking, this study identifies multiple ways that Crown governments and the conservation sector are implicated in the perpetuation of settler colonialism, despite efforts to the contrary, and suggests practical ways they could advance reconciliation through IPCAs. I highlight common struggles, and their underlying causes, that some Indigenous Nations are facing as they fulfil their rights and responsibilities through IPCAs and consequently test the climate for reconciliation. I demonstrate how and why many Indigenous Nations encounter challenges as they establish and govern IPCAs. Drawing on my interviews and domestic and
international guidance, I offer concrete suggestions for Crown governments and the conservation sector to address these challenges and present a rationale for why this is critical. Thus, the research findings have practical and policy relevance for Indigenous Nations, Crown governments, and the conservation sector. The study contributes to research on Indigenous conservation governance and to the discourse and practice of reconciliation in Canada, including the implementation of UNDRIP. Indigenous Nations interested in pursuing IPCA establishment may also find the case study analysis useful in thinking through their own methods, strategies, and visions.

Methodologically, this study challenges some of the norms of community-based research (CBR) while advancing a decolonial research agenda with two Indigenous initiatives. While aligning with Indigenous and decolonizing methodologies that advance methods that encourage researcher reflexivity and positionality, community-engaged research, and reciprocity, I decentered my desire to do community-based work and responded to the direction of my community partners (Kovach, 2009; L. T. Smith, 1999; Wilson, 2008). CBR emphasizes the importance of inclusivity and engagement with community partners to design the study, collect and analyze the data, and mobilize the findings. There is a common assumption in the CBR literature that communities will want or have the capacity to be involved in academic research, and that they have clear ideas for the scope of a research project and the nature of collaboration. Meanwhile, much of the decolonial and Indigenous methods literature does not emphasize ways for non-Indigenous scholars to build ethical cross-cultural relationships that support rather than strain community leadership and capacity. Researchers, and particularly graduate students, typically have limited funds and time to appropriately compensate participants or contribute to capacity development that may be needed for a deeply engaged research project, even if such a partnership is desirable. As discussed, the capacity of Indigenous leaders and staff is often extremely stretched between critical demands on their time, while research fatigue is a real risk in many communities who are open to research collaborations. Thus, researchers must exercise caution not to advance their own interests in community-engaged research over the needs and realities of their partners, even if this interest includes engagement and decolonial collaboration. These reflections are important considerations when cultivating decolonial, reciprocal, and cross-cultural research collaborations.
6.3 Limitations

This study was constrained by travel restrictions and precautions related to the COVID-19 pandemic which struck during the early stages of fieldwork. Thankfully, I had already travelled to Tsilhqot’in territory several times and established a relationship with the Dasiqox Nexwagweźʔan Initiative prior to the travel restrictions enacted by the University of Guelph and the Tsilhqot’in National Government. Once these restrictions were lifted I continued to opt out of travelling or meeting in person to avoid potentially bringing the virus to Tsilhqot’in communities and Elders. The pandemic also created additional capacity strains for my community partners dealing with the spread of the virus, which meant I was wary of creating potential stressors by requesting additional interviews or feedback. Consequently, I conducted all my interviews, and attended most of the Dasiqox Nexwagweźʔan Initiative’s governance meetings over Zoom or telephone. Had these conversations been in-person I think they would have better supported our relationship building process by providing more tangible opportunities to be related and collaborate. Spending more time connecting with Tsilhqot’in territory and Tsilhqot’in citizens would have enriched this study by deepening my understanding of Tsilhqot’in culture and territory, and consequently of Dasiqox Nexwagweźʔan. There would also have been more spontaneous opportunities to meet and speak with leaders and staff involved with the initiative. I plan to present my research findings to the Dasiqox Nexwagweźʔan Initiative and discuss knowledge mobilization activities and future research needs in the coming months.

Similarly, I was not able to visit Kitasoo Xai’xais territory or the community of Klemtu and therefore connect with the lands and waters and get to know additional individuals involved with KXSA and Kitasoo Xai’xais Protected Areas. Luckily, I was able to meet the core KXSA leadership and support team in Vancouver prior to Klemtu going into an extended lock-down. While the legal study (Chapter 5) is strongly community-engaged and responds directly to KXSA’s clearly identified research need, spending time in the territory would have enhanced my understanding of KXSA’s context and the values and the aims they are advancing through protected areas. I mitigated this limitation by staying in regular contact with KXSA throughout the study, scoping the legal study together, and obtaining feedback on drafts (Chapter 5). I plan
present the research findings and collaborate on a knowledge mobilization plan and activities with KXSA.

Taking a community-engaged research approach that respects community direction resulted in small sample sizes with the Dasiqox Nexwagweʔkan Initiative (n=five) and KXSA (n=three). Both initiatives preferred I interview the leadership and core staff rather than conduct extensive community interviews or talking circles. Thus, opportunities for exploring how community members perceive their established or potential IPCA initiatives and the possibilities for reconciliation in and through them were limited. I was therefore not able to examine how perceptions might differ within the communities, for example by including youth and Elders in the study. This was somewhat offset in Dasiqox Nexwagweʔkan where collaborators provided me with access to an internal report that summarized extensive community engagement related to the IPCA.

In total, I interviewed 24 key informants including representatives of national Indigenous organizations and a leader with Lutsel K’e Dene First Nation regarding Thaidene Nëné. I organized six public webinars with the CRP with multiple speakers on legal and governance topics relevant to this research (e.g. natural law, Doctrine of Discovery, Thaidene Nëné, land use/relations planning, IPCA governance, and Tla-o-qui-aht Tribal Parks). These webinars provided additional context that informed my understanding of the legal and governance context for IPCAs in Turtle Island/Canada. The five interviews I conducted with Crown government staff in B.C. and at the federal level provided important context and backdrop for the study. These conversations informed my understanding of the current mandates for conservation and reconciliation and some of the enabling and constraining factors for IPCAs from government perspectives. I did not conduct deep qualitative analysis (i.e. coding) as part of a conscious choice to privilege Indigenous perspectives on IPCAs in this study. In the case of the land use planning interviews, I conducted a small survey of predominantly ENGO perspectives on the GBR and CBFA planning processes (n=eight). This study (Chapter 3) was not intended to be a comprehensive and detailed analysis of ENGO perspectives. The aim was to speak with experienced key informants with past involvement in, or expertise about, the processes to better understand the conservation sector’s readiness to support Indigenous-led conservation. Several
potential ENGO participants I reached out to for interviews did not respond to invitations for interviews.

Although many of the examples I draw on, and both research collaborations, are related to Indigenous-led conservation initiatives located in B.C., it is worth thinking about how insights from this study could be extrapolated to other jurisdictions in Canada. The political context of B.C. is unique in many ways and the province is home to the first IPCAs established by the Haida and Tla-o-qui-aht Nations in the 1980s. B.C. has a long history of environmental activism which has brought conservation issues to the fore of public awareness, and relatively few treaties have been concluded. The lack of treaties evokes settler anxieties and economic uncertainties that created a political environment in which Indigenous Nations have advocated for stronger roles in environmental governance processes. In B.C., reconciliation agreements between Indigenous Nations and the Crown are becoming increasingly common, which provide impetus and can cultivate Crown support for Indigenous Nations advancing IPCAs. Apart from the Government of Canada, the Province of B.C. is also the only Crown jurisdiction in Canada that passed implementation legislation for UNDRIP, which creates additional levers for pressuring the provincial government, industry, and the conservation sector to respect Indigenous rights, free, prior, and informed consent (FPIC), and self-determination. Yet, many Nations across Turtle Island/Canada face similar challenges related to resource extraction and development, the lack of adequate legislative tools, and the undermining of their governance, authority, and jurisdiction. Therefore insights from this study can be applied to other contexts. I also broaden the focus from B.C. in the legal study (Chapter 5) in which I analyze legislative innovations in the Northwest Territories and Aotearoa New Zealand with examples of Indigenous-led conservation in both places (Thaidene Nënê and Te Urewera).

Some of the other limitations of this study are related to the optics and potential unintended consequences of someone of European descent conducting one of very few in-depth studies of IPCAs in Turtle Island/Canada to date. I have attempted to avoid the romanticization of IPCAs and Indigenous cultures while explicitly positioning myself in the research process. I have done so by being transparent about my identity, aims, and conceptual approach (Chapter 2) while upholding the authority, legitimacy, and importance of Indigenous Peoples to speak for themselves and their initiatives. I have been cautious not to assert the perception of being
objective or having expertise in IPCAs, instead positioning myself as a concerned Canadian citizen with an interest in biodiversity conservation, justice, and transformative reconciliation. I hope to have offset the limitations of a Eurocentric gaze by applying a decolonial lens to the research and being self-reflexive. Finally, by grappling with IPCAs as processes of reconciliation I risk upsetting, or unintentionally undermining, Indigenous Nations who believe IPCAs are about Indigenous resurgence, and that reconciliation is a form of cooptation. To this end, I have thoughtfully engaged with the rich and varied critiques of reconciliation as a pacifying discourse rooted in Eurocentric and Christian values that undermines Indigenous resurgence and refusal. In doing so, I advocated for reconciliation as a complementary process to decolonization and Indigenous resurgence, one where transformative change at personal, organizational, and systemic levels of settler society is required.

6.4 Future Directions

Future research led by, or in collaboration with, Indigenous Nations into Indigenous-led conservation and terrestrial and marine IPCAs is warranted. Additional studies that examine power relations, constraints, and possibilities at the scale of individual IPCAs (including Métis- and Inuit-led IPCAs), in conversation with broader systems, policies, and mandates could be in service of advancing IPCAs and reconciliation. For example, it would be instructive to explore how other IPCA initiatives across Turtle Island/Canada, in a variety of ecological and political contexts, are navigating establishment and governance. Additional analysis into the challenges Indigenous Nations face while establishing and protecting IPCAs in various geographical, jurisdictional, treated/non-treated, and political contexts would help nuance discussions about IPCAs, which are being mobilized differently in different contexts. Since IPCAs make a number of interventions into mainstream conservation governance, it would be useful to understand what kinds of governance frameworks, processes, and legal approaches Indigenous Nations are using to advance their IPCAs and how these are working. For example, ICE outlined four governance typologies for IPCAs in their report (sole Indigenous governance; Indigenous-Crown; Indigenous-ENGO; and Indigenous-hybrid). Research that investigates different governance and legal pathways for IPCAs would help advance innovation and potentially support capacity among Indigenous Nations establishing IPCAs. There is also a need for work that investigates
the possibilities for transitioning existing parks and protected areas to IPCAs under Indigenous governance or strong co-governance models.

To expand possibilities for reconciliation through IPCAs, research that engages more thoroughly with Crown perspectives and the conservation sector is needed in addition to Indigenous perspectives. While the federal government has so far been the biggest Crown champion of IPCAs, this support can be internally contradicted by various ministries with mandates that could undermine IPCAs (Chapters 3 and 4). Similarly, the provinces and territories have been slower to respond to or support IPCAs, which is problematic given that they oversee terrestrial resource extraction (as opposed to fisheries which are under federal purview). ENGOs, philanthropic organizations, researchers, and academic partnerships are increasingly supporting IPCAs and Indigenous-led conservation. To this end, and responding to calls from the TRC, ICE, and Indigenous scholars, it would be prudent to continue unpacking what reconciliation means in the context of IPCAs and what societal shifts are necessary for the conservation sector and settler society to support them. Finally, there are opportunities to examine possibilities for marine IPCAs (or IPCAs that include both marine and terrestrial ecosystems) in the context of Indigenous governance and reconciliation since these involve different complexities and Crown actors than terrestrial IPCAs.

To advance decolonial political ecology, it is important that future research on IPCAs responds to Indigenous research needs and is conducted in collaboration with Indigenous Nations, communities, or organizations. There is great potential for methodological contributions within political ecology that advance research as an act of reconciliation. To do so, political ecologists working out of Turtle Island/North America can intervene with the dynamics of settler colonialism prevalent in environmental issues and knowledge systems in the territories in which they are embedded and implicated. To advance reconciliation in IPCAs through research, it is important that the research is conducted ethically, draws on decolonizing methods, and that research relationships are imbued with reciprocity and accountability. Since transformative reconciliation is an active and ongoing process, not a fictitious end point at which point no further work is needed, the “how” of decolonial political ecological and decolonizing research matters. Future decolonial political ecology studies must reflect approaches and tools that challenge—and not replicate—setter colonial power dynamics. As we practice respectful ways of
relating in our research, collaborations, and work, political ecologists can apply the insights and tools of the field to enable Indigenous and decolonial—and therefore reconciliatory—futurities to flourish.
BIBLIOGRAPHY


https://doi.org/10.1016/j.geoforum.2014.02.003

https://doi.org/10.1080/1368879042000278852

https://doi.org/10.18584/iipj.2017.8.4.8


244


CRP (Director). (2020, October 8). *What is Ethical Space?* https://www.youtube.com/watch?v=kjjUi-5qra0


CRP, IISAAK OLAM Foundation, & West Coast Environmental Law (Directors). (2020). *Case study: Thaidene Nene (Virtual Campfire Series webinar)*. https://www.youtube.com/watch?v=o3S9eiqBS50&t=69s


applied aspects of the use of future in decision making (pp. 393–406). Springer International Publishing. https://doi.org/10.1007/978-3-319-91554-8_40


Garnett, S. T., Burgess, N. D., Fa, J. E., Fernández-Llamazares, Á., Molnár, Z., Robinson, C. J., Watson, J. E. M., Zander, K. K., Austin, B., Brondizio, E. S., Collier, N. F., Duncan, T.,


KXSA. (2019). *Choolque Kitasoo/Xai’xais Protected Area: Site specific rationale and goals*. 261
KXSA. (2022a). *Gitdiszu Lugeks (Kitasu Bay) marine protected area management plan- draft (June 2022).*


262


McDermott, L., & Roth, R. (Forthcoming). *Enacting a reciprocal ethic of care: (Finally) fulfilling treaty obligations*.


Nadasdy, P. (2011). “We don’t harvest animals; we kill them”: Agricultural metaphors and the politics of wildlife management in the Yukon. In M. Goldman, P. Nadasdy, & M. Turner (Eds.), Knowing nature: Conversations at the intersection of political ecology and science studies (pp. 135–151). The University of Chicago Press.


https://nctr.ca/education/teaching-resources/residential-school-history/


https://www.natureunited.ca/about-us/where-we-work/british-columbia/clayoquot-sound-vision-for-hesquiaht-territory/

https://doi.org/10.1002/ldr.3400030203


Nishnawbe Aski Nation. (2011). *Open letter to the signatories of the Canadian Boreal Forest Agreement (“CBFA”) of May 14, 2010 (as highlighted below).*


https://doi.org/10.1177/0263775817713209


Protected Areas of British Columbia Act, SBC 2000, c. 17 (2000).


Province of B.C. (2021c). *Land use planning for provincial public land*. Province of British Columbia. https://www2.gov.bc.ca/gov/content/industry/crown-land-water/land-use-planning


274


283


https://journals.librarypublishing.arizona.edu/jpe/article/id/4716/

Appendix A: Research Protocol Agreements

1. Dasiqox Nexwagweżʔan Research Protocol Agreement
2. Kitasoo Xai’xais Stewardship Authority (Schedules A-C omitted)
Dasiqox Tribal Park Research Protocol Agreement

Between:

Xeni Gwet’in First Nation Government
General Delivery
Nemaiah Valley, British Columbia V0L 1X0
(hereinafter “Xeni Gwet’in”)

Yunesit’in First Nation
General Delivery
Hanceville, British Columbia V0L 1K0
(hereinafter “Yunesit’in”)

(hereinafter collectively referred to as, “the Nations”)

And:

**Researcher Name: Justine Townsend, PhD Candidate**

**Institution or Organization: University of Guelph**

**Address: 50 Stone Rd. E., Guelph, ON, N1G 2W1**

(collectively, the “Parties”)

**WHEREAS:**

- Dasiqox Tribal Park is an area of land that is critically important to the Tsilhqot’in and is collaboratively stewarded by the Xeni Gwet’in and Yunesit’in Government;
- Based on Tsilhqot’in values and laws, the Dasiqox Tribal Park aims to foster ecosystem stewardship, an economy for sustainable livelihoods, and cultural revitalization for the benefit of future generations;
- The Dasiqox Tribal Park considers the character of the people, their history, the legacy of colonialism and the immediate need to heal and revitalize the core teachings, while always being conscious of future generations.

**AND WHEREAS:**

- **Justine Townsend**, under the supervision of Dr. Robin Roth and the University of Guelph, Department of Geography, will carry out fieldwork in the Dasiqox Tribal Park within the Chilcotin District, Cariboo Region, BC, Canada for the sole purpose of research towards the project: “All our relations:” *Indigenous conservation governance and reconciliation in Canada* (see Schedule A for research proposal).
Activities to be carried out by the Researcher for the purpose of “All our relations:” Indigenous conservation governance and reconciliation in Canada, include: review and analysis of DTP reports and pre-existing DTP research and interviews that may be available, participation in DTP related events, and key informant interviews with Xeni Gwet’in First Nations Government, Yunesit’in Government, and Tsilhqot’in National Government. Research will be conducted remotely except for attendance at DTP events and to conduct interviews, which would take place at the convenience of participants. The intensive research phase is anticipated to be between October 2019 and March 2020 (followed by analysis and writing).

AND WHEREAS:

- The Nations and the Researcher recognize a common goal of undertaking research to improve understanding of the social, cultural and ecological ecosystems and conserving habitat of the Dasiqox Tribal Park area;
- The Nations and the Researcher recognize that collaboration will help to achieve this common goal.

THEREFORE:

The Yunesit’in and Xeni Gwet’in agree to provide opportunities for a collaborative research approach with Justine Townsend, Dr. Robin Roth, University of Guelph, Department of Geography as per the research project outlined in Schedule A, within the Dasiqox Tribal Park as follows:

1. Respect
   a. The Researcher acknowledges that the Nations:
      i. have unique cultures, interests and knowledge that are intricately linked to the lands, waters and natural resources within the Dasiqox Tribal Park;
      ii. have a right and obligation to exercise control to protect their cultural and intellectual properties and knowledge;
      iii. have a right to be meaningfully involved in research that occurs within the Dasiqox Tribal Park;
      iv. have the right to insist that research activities and means of access to remote areas conform to standards and expectations set out in the Nemiah Declaration and visitor guidelines for the Dasiqox Tribal Park and the communities therein, including respect for lands and wildlife.
   b. The Nations acknowledge the skills, resources and knowledge that the Researcher brings to their work.
   c. The Nations recognize that impartial research is a basis of academic scholarship.
   d. The Nations recognize that the Researcher may have responsibilities, obligations, and/or rights associated with their research institution or organization.

2. Consultation
   a. The Researcher will consult with the Nations before, during, and after undertaking research in, or related to, the Dasiqox Tribal Park, to:
      i. Discuss and explore how any proposed research activities carried out under this agreement may be mutually beneficial; and
      ii. Make best efforts to ensure research goals, designs, workplans, budgets, activities, and products are mutually acceptable.
3. Resources
   a. The Dasiqox Tribal Park Coordinator (the “Coordinator”) is designated as the Researcher liaison. The Coordinator will represent the interests of the Dasiqox Tribal Park, as per the guidance and oversight of the Yunesit’in and Xeni Gwet’in Nation Chiefs, and will be involved in reviewing research questions, designs, workplans, results and publications, as well as maintaining communications about research with Chiefs and Councillors.
   b. The Researcher will work with the Coordinator and make best efforts to identify ways to maximize, wherever feasible, Yunesit’in and Xeni Gwet’in member involvement in the research.
   c. Research funding applications and budgets will be developed with the Nations’ administrative costs and capacity in mind. At minimum, it is recommended that ten percent of the research project funding (excluding student salary) will be allocated to the Dasiqox Tribal Park to cover administration, communications, coordination and research review.

4. Communication and Information Sharing
   a. The Researcher will comply with the research intent, methodology and timeframe as set out in the attached Summary Proposal (Schedule A). The Coordinator must be notified verbally and in writing of any changes to intent, scope, methodology or timeframe of the research project as described in Schedule A. The Coordinator must approve the change before the research proceeds.
   b. Information and research outcomes will be communicated in a relevant and accessible format to the Coordinator, Nation Chiefs and the Yunesit’in and Xeni Gwet’in communities at large.
   c. Information, research outcomes and data collected through research in the Dasiqox Tribal Park will be made available in an accessible and applicable manner to the Coordinator for review and feedback prior to public distribution.
   d. A copy of the final report will be provided to the Coordinator for review and feedback prior to public distribution.
   e. Copies of research publications will be provided to the Coordinator for review and feedback prior to publication, whenever possible.
   f. Where the Coordinator provides feedback, it will be communicated to the researcher within 30 days, or another timeframe mutually agreed upon in advance.

5. Research Conduct and Knowledge
   a. All research activities associated with this study including the collection, handling, storage and publication of data, shall be conducted according to the Dasiqox Tribal Park Research Guidelines.
   b. The Researcher shall keep the identity of individual participants and interviewees anonymous in all published documents and public research presentations, except where permission to identify an individual is explicitly granted by that individual, either in writing or by verbal consent on an audio recording.
   c. Research participants will be appropriately compensated for sharing their time and knowledge.
   d. Raw interview data shall be kept confidential by the Researchers. Interview transcripts will be shared with interviewees for their review and approval, with the opportunity for interviewees to clarify or change wording, to ensure that their intended meaning has been communicated and correctly interpreted.
e. Interview recordings and all other data will be provided to the Yunesit’in and/or Xeni Gwet’in First Nation, as appropriate based on the origin of the intellectual property, at the closure of the research project. The researcher will keep a backup copy of the data for six years after the research has been conducted.

f. The information or knowledge disclosed by any member of the Yunesit’in First Nation, Xeni Gwet’in First Nation, and the Tsilhqot’in (Nation) during interviews or meetings related to research under this Agreement remains the exclusive intellectual property of that member, unless informed consent (oral or written) is granted and documented.

6. Access Management and Impacts
   a. All research activities associated with this project shall be carried out in accordance with the Nations’ rules and protocols for access and use of the Dasiqox Tribal Park, and Yunesit’in and Xeni Gwet’in Caretaker areas, including:
      i. Access to backcountry areas;
      ii. Treatment of, and interaction with wildlife;
      iii. Use of motorized vehicles, drones, and/or other equipment that can impact terrain, wildlife, water quality, or human use.
   b. Where uncertainty exists, the Research and the Nations will reach agreement specific to each project, to be added as an addendum to this protocol.

7. Publication and Research Results
   a. The Yunesit’in and Xeni Gwet’in understand that data gathered as part of this study may be used in report form by the Researcher, for publications, and presentations for academic and professional purposes. Authorship of any works or publications resulting from the project outlined in Schedule A will be mutually agreed upon by the Parties and will be based on potential authors’ contributions towards that publication. The Parties agree that co-authorship is mutually beneficial and will strive to achieve co-authorship on all works. The following are considered contributions of a research project: concept, opportunity, funding, experimental design or pilot studies, data collection, data analysis, and write up. Authorship should be based on the relative contribution in these areas.
      i. Where co-authorship cannot be attained, the Researcher will explicitly recognize Yunesit’in, Xeni Gwet’in and/or Tsilhqot’in ownership of intellectual property and traditional knowledge in all publications of research results.
      ii. The thesis or dissertation of the Researcher is exempt from paragraph 7.a.
   b. Direct narrative quotations from interviews may be used after interviewees have reviewed and approved the interview transcripts.
   c. The Yunesit’in and Xeni Gwet’in will be notified regarding any popular media (i.e. television, radio, or journalistic print publication) exposure that occurs with respect to the study. The Nations may determine that a separate agreement with the Researcher is warranted, to guide popular media interactions.
   d. It is understood by all parties that the research results in the form of academic publications, and public presentations, will be publicly available and accessible in accordance with academic practices.

8. General
   a. Nothing in this Agreement shall abrogate or derogate from any aboriginal title or aboriginal rights of the Yunesit’in, Xeni Gwet’in, or Tsilhqot’in people;
b. Nothing in this Agreement shall be taken to mean that the Yunesit'in First Nation, Xeni Gwet'in First Nation, or the Tsilhqot’in Nation has in any way abandoned or given up its title and rights.

9. Term

a. The Parties agree that this Agreement will be in effect for the duration of the research project in Schedule A, or until either Party formally notifies the other in writing that it wishes the Agreement to be terminated.

b. Notwithstanding any termination of this Agreement, the obligations set out in Articles 5 and 6 of this Agreement survive and continue to bind the Parties, their successors and assigns until six years after such termination or expiration.

In a spirit of cooperation and trust, this Agreement is signed by:

_______________________________
Justine Townsend

_______________________________
Dasiqox Tribal Park Coordinator

University of Guelph, Department of Geography

SCHEDULE “A” - SUMMARY RESEARCH PROPOSAL

Purpose of the Research Project (75 words max)

Research Objectives (100 words max)

1. Support the development, protection, and governance of DTP through community-informed and respectful research and practical support to the DTP initiative.

2. Investigate and assess Indigenous governance models that could be adopted by the DTP initiative.

3. Investigate and promote the possibilities and leverage points for DTP as a process of reconciliation.

4. Explore what Tsilhqot’in leadership and people would like to achieve through DTP (e.g. build on the Community Vision and Management Goals report) to help make the case to Crown governments that Indigenous protected areas are critical, and different from Crown-governed protected areas.

Methodology (300 words max)

Indicate the research methods, including their appropriateness and sensitivity for Yunesit’in and Xeni Gwet’in communities, and specific locations of where research is to take place. Indicate how participants are chosen.

The researcher has been directed by the DTP initiative to rely primarily on the public record and minimize strain on community members by not conducting key informant interviews, Talking Circles, or other forms of active engagement with community members at this time. If directed otherwise, the researcher will explore with the DTP coordinator and leadership appropriate means of community engagement and participation in the research.

The researcher anticipates conducting a small subset of key informant interviewers (e.g. 10-15) with the DTP leadership (Xeni Gwet’in, Yunesit’in, TNG, support staff/researchers).

The majority of the research will be conducted remotely; however, the researcher anticipates attending DTP related events and meetings in the communities (DTP initiative to advise researcher of relevant events).
Methods that will be used are:

- Academic literature review (e.g. Indigenous conservation governance globally and nationally; co-governance models; new policy directions in environmental governance; reconciliation; etc.);
- Review of grey literature (e.g. relevant reports, agreements/frameworks, legislation/policies, governance tools, media, websites, etc.);
- Review of, and discourse analysis on, Crown-led reconciliation policy and practice in Canada (specifically with respect to environmental governance);
- Semi-structured key informant interviews with (and subsequent analysis and thematic coding):
  - Crown representatives (e.g. BC Parks; BC Ministry of Indigenous Relations and Reconciliation; Crown-Indigenous Relations and Northern Affairs Canada; Environment and Climate Change Canada; Parks Canada)
  - Current and previous elected leaders from Xeni Gwet’in First Nations Government, Yunesit’in Government, TNG, and DTP support staff;
  - Indigenous experts and advisors from Indigenous organizations (e.g. ICE, ILI), and global conservation organizations such as the ICCA Consortium, and IUCN;
- Participant observation (e.g. attendance at DTP events and meetings);
- Review, and potential analysis, and coding of existing DTP related interview transcripts or recordings- if accessible;
- If possible, review and analysis of Challenge Fund applications to understand current state of Indigenous-led governance proposals for conservation in Canada; and
- Attend and participate in relevant workshops, conferences, and gatherings related to Indigenous-led conservation and Indigenous-led governance models, including within Tsilhqot’in territory.

**Research Outputs (100 words max)**

- Briefing on Indigenous governance models for IPCAs;
- Lay-person research summary report for Xeni Gwet’in, Yunesit’in, and Tsilhqot’in leadership and communities;
- Research summary presentation/s to the DTP initiative and other Tsilhqot’in audiences as identified in collaboration with the DTP initiative;
- Peer-reviewed academic article/s;
- Articles in media outlets such as newspapers, and online public journals/magazines;
- Presentations at academic conferences to share non-confidential research results;
- Potentially other outputs as identified by the DTP initiative and agreed to at a future date.

**Research Approvals, Protocols, and Permits (50 words max)**

The University of Guelph’s Research Ethics Board is conducting a review of the proposed research (approval expected by January 2020). The researcher will abide by the stipulations outlined in this Research Protocol Agreement and will notify the signatories if the scope, timelines, or focus of the research substantially changes.

**Project Timeframe (50 words max)**

The majority of the methods outlined above will be conducted between October 2019 and March 2020.

Table 1. Preliminary PhD Schedule

<table>
<thead>
<tr>
<th>Activity</th>
<th>Semester</th>
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<tbody>
<tr>
<td>Research ethics</td>
<td>S19, F19, W20, S20, F20, W21, S21</td>
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</tbody>
</table>
Community Engagement and Employment Opportunities (100 words max)

The researcher welcomes the opportunity to engage with leadership, Elders, and community members on research design, as appropriate/desired.

The researcher will present findings on Indigenous governance models for IPCAs in February 2020 at a Governance meeting. By seeking early feedback on preliminary results it will be possible to check assumptions and early analyses, and reorient the remainder of the research to be most practical to the DTP initiative.

Wherever a need is identified the researcher will hire community based research assistants from Xeni Gwet’in and Yunesit’in to assist with planning, logistics, execution, and analysis.
Kitasoo/Xai’xais First Nation

THIS [updated] Agreement dated this 17th day of December, 2021 (initial agreement dated December 12, 2019), BETWEEN:

KITASOO/XAI’XAIS FIRST NATION
Kitasoo Band Office
PO Box 87, Klemtu, BC V0T 1L0
Tel: (250) 839-1255; Fax: (250) 839-1256
(“Kitasoo/Xai’xais”)

AND:

JUSTINE TOWNSEND
4305 Fleming St.
Vancouver, BC, V5N 3W4
Tel: (778) 867-2525
(“Justine”)

AND:

Georgia Lloyd-Smith
West Coast Environmental Law
2006 W. 10th Ave Suite 200
Vancouver, BC, V6J 2B3
Tel: (604) 817-3940
(“Georgia”)

(each a “Party” and collectively the “Parties”)

WHEREAS:

A. Kitasoo/Xai’xais asserts that it holds aboriginal rights and title to its entire Territory, as shown in Schedule A (the “Territory”);

B. Kitasoo/Xai’xais require a signed protocol agreement with any party wishing to conduct business or research within the Territory, and/or seeking a provincial or federal authorization in the Territory, in accordance with the Nation’s legal traditions, and the goals and objectives of Free, Prior and Informed Consent (FPIC);

C. the Parties wish to develop a mutually beneficial working relationship based on respect, trust and understanding; and

D. the Parties wish to enter into this Protocol Agreement (the “Agreement”) to guide how the Parties interact for the management of Justine’s Activities within the Territory and in use of Kitasoo/Xai’xais data and assets.

The Parties agree to the following:
1. **Scope and Objective**

This Agreement will govern the relationship of the Parties as it pertains to the research activities of Justine.

2. **Spirit & Intent**

The spirit and intent of this Agreement is to:

(a) develop a strong working relationship between the Parties;

(b) provide a framework for engagement between the Parties regarding Justine’s research activities;

(c) provide a framework to ensure that Justine’s research provides benefits to both Parties;

(d) develop an understanding of one another’s interests;

(e) foster open, honest and respectful communication on interests and issues.

3. **Kitasoo/Xai’xais Interests**

The interests of Kitasoo/Xai’xais include the following:

(a) to implement Kitasoo/Xai’xais legal traditions, policies and customs;

(b) to maintain the culture and traditions of the Kitasoo/Xai’xais People;

(c) stewardship of the Territory for its ongoing use by current and future generations;

(d) to protect and maintain cultural sites and features within the Territory (e.g. burial sites, village/camp sites, petroglyphs, traps, middens, etc.);

(e) to protect and maintain cultural heritage resources within the Territory (e.g. fish, wildlife, cultural trees and plants, etc.);

(f) education, training and career opportunities for Kitasoo/Xai’xais members; and,

(g) to develop a use/resource inventory for the Territory.

4. **Justine’s Interests**

Justine’s interests include the following:

(a) to foster and maintain a mutually beneficial relationship with Kitasoo/Xai’xais based on respect and trust;

(b) to conduct research within or pertaining to the Kitasoo/Xai’xais Nation and/or Territory;

(c) to have an awareness and understanding of Kitasoo/Xai’xais culture, and stewardship and sustainable development interests;

5. **Research Objective**

Justine’s objective is to conduct mixed-method research in collaboration with Kitasoo/Xai’xais and West Coast Environmental Law investigating Indigenous-led conservation governance, policy, and legislation to support the identification and establishment of Kitasoo/Xai’xais’ preferred models for protected areas.

Justine agrees to inform Kitasoo/Xai’xais of any proposed activities or plans, which may change and/or impact the
provisions of this agreement.

6. Management and Compliance

Justine acknowledges and respects Kitasoo/Xai’xais’ desire to ensure that activities within the Territory uphold the values and objectives of the Kitasoo/Xai’xais.

Justine will make all necessary inquiries and take all reasonable steps to ensure her operations and activities under this Agreement are following Kitasoo/Xai’xais land and marine use plans, and any laws, customs, and policies of the Kitasoo/Xai’xais.

7. Information Sharing

The Parties intend to work together to ensure active and timely information sharing and dialogue during planning and operations.

(a) Justine will share information, data, findings and reports gathered from the research with Kitasoo/Xai’xais prior to the circulation or publishing of any finding(s) or related information. Justine will provide Kitasoo/Xai’xais a draft of any publication(s) from this research at least thirty (30) days prior to submitting it for publication or conference presentation. If it is deemed that any data, findings or other information related to research will in any way harm the community and/or its members the research may not be circulated or published. In this instance, the Parties agree to work together to address the harmful subject matter.

(b) Justine will provide copies of interview recordings, transcriptions, and any other research material collected, within six months of the termination of this Agreement.

(c) The Kitasoo/Xai’xais will make reasonable efforts to keep Justine informed about activities or initiatives that are relevant to or may impact the activities carried out by Justine.

8. Confidentiality

(a) The Parties acknowledge that this Agreement and their information sharing and engagement pursuant to this Agreement may require an exchange of information that is confidential and proprietary to the Party disclosing the information. The provisions of this Agreement and any information received by a Party (the “Receiving Party”) from the other Party (the “Disclosing Party”) will be treated by the Receiving Party as confidential (the “Confidential Information”), except such information as is required by law or an agreement entered into between a Party and any federal, territorial, provincial, municipal or local government or government authority to be shared with such federal, territorial, provincial, municipal or local government or government authority. The Receiving Party agrees not to:

(i) except with the consent of the Disclosing Party, disclose the Confidential Information to any other person other than its academic supervisors, directors, officers, employees, agents or advisors (including, without limitation, counsel, auditors, bankers, professional advisors or consultants) (the “Representatives”) who need to know such information for the purposes of furthering the objectives of this Agreement and who have been informed of the confidentiality terms of this Article and are bound to obligations of confidentiality consistent with these terms;

(1) Kitasoo/Xai’xais consents to sharing of confidential information with professor Robin Roth, roth01@uoguelph.ca, (519) 824-4120 (x53525)

(ii) use the Confidential Information for any purpose other than to further the objectives of this Agreement except in order to comply with any applicable law, provided that the Receiving Party will notify the Disclosing Party of any proceeding under applicable law of which it is aware which
may result in disclosure and the Disclosing Party may, at its own expense, seek to obtain any protective order to prevent or limit such disclosure.

(b) Confidential Information does not include information which: (i) was or becomes generally available to the public other than as a result of disclosure by the Receiving Party or its Representatives; (ii) was or becomes available to the Receiving Party on a non-confidential basis from a source other than the Disclosing Party or its Representatives, provided that such source is not, to the Receiving Party’s knowledge, bound by a confidentiality agreement with the Disclosing Party or any of its Representatives or otherwise prohibited from transmitting the information to the Receiving Party or its Representatives; or (iii) was within the Receiving Party’s knowledge or possession prior to its being furnished to the Receiving Party by or on behalf of the Disclosing Party.

(c) The Parties will be entitled to all remedies available in law to enforce, or seek relief in connection with, the provisions of this Article. In addition, Parties shall be entitled to terminate this Agreement immediately upon sending written notice to the other Party, in the event of any breach by that Party of this Article.

(d) The Parties agree that information transfer over the Internet is inherently risky. If a party is acting reasonably and prudently to prevent information loss it is not liable for information stolen during transmission over the internet.

(e) The provisions of this Article shall survive the expiry or termination of this Agreement.

9. Dispute Resolution

If the Parties are unable to resolve any issue in dispute pertaining to this Agreement, on notice by either Party to the other Party, the Parties agree to each appoint a representative to meet with the representative of the other Party, within 10 days’ of receipt of the notice of dispute, in an attempt to resolve the dispute.

10. Term

This Agreement expires on June 30, 2022.

11. Termination

This Agreement will be null and void if for any reason Justine ceases operations in the Territory. Otherwise, either party can terminate this Agreement by giving the other party 30 days’ notice. No Party may assign their interest in this Agreement to any other person without the prior consent of the other Party.

12. Representations

At no time will the Parties act as agents or representatives of each other. Thus, no Party will use another Party on any proposals, agreements, or advertising without their prior written consent.

13. Indemnity

The Parties will indemnify and hold the other Party, their entities, officers, employees, agents and representatives harmless against all manner of claims, actions, suits, damages, losses and costs resulting from the Party’s operations and activities in the Territory including, without limitation, negligence on the part of the Party or their entities, officers, employees, agents and representatives.


(a) Nothing in this Agreement is intended to create, define, diminish, abrogate, or extinguish the aboriginal rights or title of the Kitasoo/Xai’xais.
(b) This Agreement does not address or affect any claims by the Kitasoo/Xai’xais arising from past, present or future interference with or infringements of its aboriginal rights and title.

(c) This Agreement is not intended to replace the obligations of the Crown to respect, secure and conduct good faith negotiations respecting the aboriginal rights and title of the Kitasoo/Xai’xais.

(d) This Agreement will continue in full force and effect for the duration of its term (unless terminated earlier in accordance with its provisions), regardless of any changes to, or decisions or settlements affecting the aboriginal rights or title in the Territory.

(e) This Agreement may be executed in one or more counterparts and delivered by facsimile or electronic transmission. Each such counterpart shall be deemed to be an original and all of them together shall be deemed to be one and the same instrument.

IN WITNESS WHEREOF this Agreement has been executed and delivered by the Parties as of the effective date indicated below.

**KITASOO/XAI’XAIS FIRST NATION**

By: ________________________________
    Doug Neasloss, Director
    Kitasoo/Xai’xais Stewardship Authority

Date: ________________________________

**JUSTINE TOWNSEND**

By: ________________________________
    Justine Townsend, PhD Candidate
    University of Guelph

Date: December 17, 2021 (initially signed January 18, 2020)

**Georgia Lloyd-Smith**

By: ________________________________
    Georgia Lloyd-Smith, West Coast
    Environmental Law

Date: December 17, 2021 (initially signed January 23, 2020)
Appendix B: Sample Interview Guides

1. Dasiqox Nexwagweżʔan Initiative and Kitasoo Xai’xais Stewardship Authority: Sample Interview Guide
2. Crown Representatives: Sample Interview Guide
3. ENGO Representatives: Sample Interview Guide
Dasiqox Nexwagweźʔan Initiative and Kitasoo Xai’xais Stewardship Authority: Sample Interview Guide

Roles and meanings

1. What has been, or is your current, role with respect to X IPCA/s?
2. Why was/were X IPCA/s established?
   a. What has been, or is your/your organization’s current, role with respect to X IPCA/s?
3. How does X IPCA/s differ from national or provincial parks?
4. What is the Nation/s trying to achieve through X IPCA/s?
   a. How successful has/have they been so far in achieving those goals?

Governance

5. How are decisions about X IPCA/s currently made?
6. What kinds of partnerships, if any, do/does X IPCA/s have? For example, with non-governmental or philanthropic organizations, or federal/provincial/municipal governments.
   a. How are these partnerships working?
7. Are additional partnerships with Crown governments, non-governmental organizations, or others being considered?
   a. Why or why not?
   b. What role could potential partners play?
8. Do, or will, community members have a role in making decisions about X IPCA/s?
9. What role, if any, does Tsilhqot’in/Kitasoo Xai’xais law play with respect to protected areas?
   a. What kinds of opportunities or challenges result from enacting Tsilhqot’in/Kitasoo Xai’xais law?
   b. What kinds of challenges exist for integrating Tsilhqot’in/Kitasoo Xai’xais laws with Crown laws?
10. What are the main challenges X IPCA/s face/s with regards to governance?
11. What are the main opportunities X IPCA/s face/s with regards to governance?

Recognition and Designations

12. Dasiqox Nexwagweźʔan Initiative only: In what ways does the 2014 court case and recognition of Tsilhqot’in title affect Dasiqox Nexwagweźʔan?
13. Is it important that B.C. or Canada formally recognize X IPCA/s? Why or why not?
14. Do you think there should be new legislation in B.C. or Canada that recognizes and protects Indigenous protected areas like tribal parks? Why or why not?
   a. If yes, what kinds of considerations should be taken into account when establishing such legislation?
   b. Are there any risks associated with implementing new legislation that could compromise the spirit and intent of Indigenous protected areas being Indigenous-led?

Challenges and Opportunities
15. What challenges has/have X IPCA/s faced, or is facing now?
   a. Could these challenges be overcome? If so, how?
16. What kinds of opportunities does, or could X IPCA/s provide for, for example, with regards to the Nation, communities, land?

Reconciliation

17. What does the word “reconciliation” mean to you?
   a. Is it a useful term? Why or why not?
18. Do you think there are opportunities for reconciliation [or something you identify as an alternative] in X IPCA/s?
   b. If yes, what are these? If no, why not?
19. What, if anything, needs to happen, or stop happening, for reconciliation to occur in X IPCA/s?
   c. How hopeful are you of this occurring and why/why not?
20. In what ways have others (e.g. Crown and municipal governments, environmental organizations, industry, the public, etc.) supported X IPCA/s?
   d. What kinds of support are needed?
21. In what ways have others (e.g. Crown and municipal governments, environmental organizations, industry, the public, etc.) gotten in the way of X IPCA/s?

Closing

1. What do/does X IPCA/s mean to you personally, and for your Nation?
2. What are you most enthusiastic about with regards to X IPCA/s?
3. What are you most worried about with regards to X IPCA/s?
4. Is there anything you think I should know that we haven’t had chance to talk about?
Crown Representatives: Sample Interview Guide

Current State of Affairs
1. How would you describe the current climate of Indigenous-led conservation in Canada?
2. What is X agency’s approach to, or involvement in, Indigenous-led conservation and IPCAs?
3. In what ways might IPCAs be advancing, or could they advance, reconciliation?

Nature Fund (for federal representatives only)
4. What do you think are the main successes of the Nature Fund with respect to IPCAs?
5. What were the main challenges your agency faced with making decisions about, and administering, the Nature Fund with respect to IPCAs?
6. What, if any, are the next steps with, or following, the Nature Fund with respect to IPCAs?

Governance
7. To what extent is X agency involved in helping to develop models of governance for IPCAs?
8. Are there constraints on what counts towards the protection targets in terms of types of IPCAs (e.g. ones that are solely Indigenous governed vs. partnership models)? If so, in what ways?
9. Are you aware of any examples where co-governance models involving Crown and Indigenous governments are working well in IPCAs? Please elaborate.
10. What are the different kinds of opportunities or challenges for IPCAs in areas where there are treaties verses areas where there are not?

Lessons Learned
11. What do you think are the most significant successes when it comes to advancing Indigenous-led conservation and establishing IPCAs in Canada?
12. What do you think are the most significant challenges with respect to advancing Indigenous-led conservation and establishing IPCAs in Canada?
13. What advice would you give other countries attempting to advance Indigenous-led conservation and reconciliation?

Next Steps
14. Some proponents of IPCAs, both internationally and domestically, would like to see the mainstreaming of Indigenous-led conservation. In your assessment, how far along are we in possibly meeting that goal? For example, how vulnerable is the IPA file to the election cycle?
15. What have been the main lessons, if any, learned from other countries that we could be doing here?
16. How often does the concept of reconciliation come up within your agency’s work on this file?
a. What do you think the main challenges are for bringing about the type of transformative change needed for meaningful reconciliation?

17. Is there anything else you think I should know about that we haven’t had the chance to discuss?
ENGO Representatives: Sample Interview Guide

1. Please describe the role of your organization in the Great Bear Rainforest (GBR) and/or Canadian Boreal Forest Agreements (CBFA).
   a. In relation to each of the agreements, what did success look like to the organization at the time? What were the goals of the planning process? What were the organization’s goals at the time?
   b. What time frame was the organization involved?
   c. What activities did the organization undertake in pursuit of its goals?

2. What was the philosophy and approach the organization took during its involvement in these agreements with respect to:
   a. Working with other ENGOs
   b. Working with industry
   c. Working with Indigenous groups

3. How did the organization view and relate to Indigenous Nations during its involvement with these agreements?
   a. Did the organization have an Indigenous policy or other organizational mandate to work with Indigenous Peoples?
      i. If yes, please describe.
      ii. Did the views the organization held towards Indigenous Nations, or with respect to working with Indigenous Nations, evolve over the course of its involvement in the Agreements?
      iii. At the time of its involvement in this/these planning process/es did the organization seek to reconcile Indigenous rights and interests with its own goals and mandates? If so, how?

4. In the GBR, ENGOs led a successful markets-based campaign and worked with Coastal First Nations to create a conservation-based economy. First Nations in the GBR guided the planning process in a government-to-government capacity with the province. In the CBFA, Indigenous Nations were largely excluded from industry-ENGO negotiations. In your opinion, what were the main factors that shaped such different approaches?

If the organization was involved in the CBFA:

5. In 2010, the Nishnawbe Aski Nation (NAN) launched a campaign against the Far North Act, the enabling legislation that facilitated Ontario’s 50% protection target, consistent with the CBFA. NAN expressed strong opposition to the CBFA and Ontario’s Far North Act. NAN also accused ENGOs for their complicity.
   a. Why do you think that NAN was not included in those negotiations? What were the contributing factors?
   b. If your organization were to participate in the CBFA again what, if anything, would it do differently in terms of its engagement with First Nations?
If the organization was involved in the GBR as well as the CBFA:

c. In thinking about your organization’s role in the GBR Agreement in which Coastal First Nations played a significant role, what made the Ontario context different?

6. What were some of the lessons learned by your organization, or ENGOs more broadly, through these Agreements?
   a. Have these lessons contributed to changes in organizational mandates, Indigenous policies, or in other ways?

7. Does Canada’s adoption of the United Nations Declaration on the Rights of Indigenous Peoples and commitment to reconciliation affect how your organization will interact with Indigenous Peoples and if so how?

8. Is there anyone else you think I should speak with and if so who?
Appendix C: Key Coding Themes Related to IPCAs and Reconciliation from NVivo

1. Themes from key informant interviews: IPCAs
2. Themes from key informant interviews: Reconciliation—critiques and skepticism
3. Themes from key informant interviews: Reconciliation—potential and opportunity
1. Themes from key informant interviews: "IPCAs"

Note: The size of each rectangle represents the amount of coding to that theme.
2. Themes from key informant interviews: “Reconciliation—critiques and skepticism”

Note: The size of each rectangle represents the amount of coding to that theme.

<table>
<thead>
<tr>
<th>Reconciliation - critiques &amp; skepticism</th>
<th>Crown needs to build...</th>
<th>Uncertainty arou...</th>
<th>Reconciliation - All...</th>
</tr>
</thead>
<tbody>
<tr>
<td>Incompatible with ongoing resource extraction</td>
<td></td>
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<td>Requires broader systemic and economic systems change...</td>
<td>Hampered by economic de...</td>
<td>Bureaucratic inertia...</td>
<td>Needs more...</td>
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<tr>
<td>Unequal resources &amp; capacity to engage (Crown &amp; IPs)</td>
<td>Complicated &amp; chall...</td>
<td>Must not unde...</td>
<td>Settle p...</td>
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<tr>
<td>Settler fears and racism around giving away control &amp; land</td>
<td>Must not undertake...</td>
<td>Barrier is Tsilhqo...</td>
<td>Province and Feds nee...</td>
</tr>
</tbody>
</table>
3. Themes from key informant interviews: “Reconciliation—potential and opportunity”

Note: The size of each rectangle represents the amount of coding to that theme.
**Appendix D: Milestones in the Great Bear Rainforest, Canadian Boreal, and Far North Land Use Planning Processes**

<table>
<thead>
<tr>
<th>Canadian Boreal Forest and Far North Planning Process (Ontario)</th>
<th>Great Bear Rainforest Planning Process (British Columbia)</th>
<th>External Influential Factors</th>
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</thead>
<tbody>
<tr>
<td></td>
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<td>1984: The first tribal park in Canada established: Tla-o-qui-aht Tribal Parks established on Wah-Nah-Jus Hilth-hoo-is (Meares Island) to protect the territory from clear cut logging (later expanded).</td>
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<td>1995: Rainforest Solutions Project formed.</td>
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<td>1996: Land and resource management planning on B.C.’s Central Coast planning process commences.</td>
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<td>1999: Province of Ontario, ENGOs, and forestry companies sign the Ontario Forest Accord (no Indigenous signatories).</td>
<td>2000: Joint Solutions Project established by forestry companies and ENGOs who decide to collaborate. Eight First Nations create the Turning Point Initiative to represent their own interests.</td>
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<td>2003: Boreal Leadership Council (ENGOs, industry, five First Nations’ councils representing 59 communities) negotiates and signs the Boreal Forest Conservation Framework with goal of</td>
<td>2003-2004: Province of B.C. begins discussions with First Nations governments following consensus recommendations from planning participants.</td>
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<td>Protecting at least half of the boreal forest. An additional four First Nations’ councils representing 23 communities later endorse.</td>
<td>2006: Agreement 1—Coast Land Use Decision encompassing agreements reached in the central and north coast announced by Province of B.C. and First Nations; ecosystem-based management is committed to throughout the GBR. Coast Funds established. ENGOs and First Nations raise $60 million for a conservation endowment fund.</td>
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<td>2004: Forest Stewardship Council creates the National Boreal Standard with funding from Pew Charitable Trusts.</td>
<td>2007: New legal land use orders are established for the South Central Coast and Central North Coast. Province of B.C. and Government of Canada each contribute $30 million bringing the total to $120 million for conservation financing.</td>
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<td>2006-2015: Five First Nations complete land use plans</td>
<td>2009: Agreement 2—Province of B.C. amends the land use orders to protect 50% of natural historic old growth forests; participants agree to a five-year work plan to implement ecosystem-based management. 114 conservancies and 21 Biodiversity, Mining and Tourism Areas are established from 2006 to 2009. Province of B.C. and Coastal First Nations sign a G2G Reconciliation Protocol (amended 2010).</td>
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<td>2009: Ontario introduces Far North Planning Initiative with the goal of protecting 50% of northern lands and facilitating development in the remaining 50%.</td>
<td>2009: Province of B.C. and Coastal First Nations sign a reconciliation</td>
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<td>2010 (May): ENGOs and industry sign the Canadian Boreal Forest Agreement.</td>
<td>protocol agreement (amended several times thereafter).</td>
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<td>2010 (December): Assembly of First Nations condemns the CBFA and demands its termination.</td>
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<td>2013: Canopy withdraws from CBFA.</td>
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<td>2014: Joint Solutions Project submits detailed recommendations to Province of B.C., Coastal First Nations, and Ngnwakolas Council.</td>
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<td>2020 (November): Ontario’s Ministry of Natural Resources and Forestry withdraws proposal to repeal the Far North Act. Proposes to amend the legislation by removing the target size of protected areas with intent of facilitating economic development, particularly mining in the Ring of Fire.</td>
<td>2019 (April): Federal government announced</td>
<td>2019 (November): Province of B.C. passes legislation to harmonize the province’s laws with UNDRIP.</td>
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<td>2020: Federal government tables legislation to implement UNDRIP as a framework for reconciliation in Canada and to ensure Canada’s laws are consistent with UNDRIP.</td>
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