Indigenous Involvement in the Heritage Resource Management Industry in Southern Ontario: Conversations with Three Nations

by

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Abstract

In southern Ontario, heritage preservation and protection are mandated under provincial provisions but there has been little involvement of Indigenous nations whose ancestral (i.e., archaeological) sites are the focus of the heritage resource industry. This study investigated and sought solutions to Indigenous concerns about heritage control and archaeological mitigation practices, and identified various Indigenous roles in the heritage resource management industry. Interviews were conducted with representatives from three Indigenous nations in southern Ontario: 1) the Anishinabek; 2) the Haudenosaunee; and 3) the Huronne-Wendat. Interview analysis was conducted using NVivo analysis software to transcribe and compartmentalize interview data allowing for an in-depth analysis of the semi-structured interviews. The analysis of results allowed for generalizations but also incorporated many participants' unique perspectives. Participant's responses contributed to developing a set of recommendations of full Indigenous nation inclusion in archaeological assessments in southern Ontario through the implementation of Indigenous-oriented approaches based on relationship building between archaeologists and Indigenous nations.

Keywords: Indigenous Involvement; Heritage Resource Management; Archaeological legislation

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Chapter 1.

Introduction

The cultural heritage industry in North America today is a product of a global authorized heritage discourse. As Laurajane Smith (2004:5) has noted, in the early twentieth-century globalization created national identities in Canada and the United States through preservation and conservation of heritage based on scientific neutrality, with Indigenous peoples considered a vanishing race and their cultural heritage was a "dead" past. Over the last three decades, Indigenous activism and a more critical anthropological analysis has largely displaced these colonial myths. Today Indigenous peoples look to assert authority over their past to reinforce their identities and rectify the nationalistic agendas still prevalent in colonial law. Archaeology serves as a window to the human past through material remains; it also supplements or extends historic sources (both oral and written) to provide descendant communities with information vital to their sense of history, identity, and wellbeing. Yet the authorized heritage discourse has long prevented Indigenous peoples from owning and controlling their heritage and, in turn, has denied them both political and cultural recognition (Smith 2006:279).

Heritage resource management (HRM) in southern Ontario today is very much a reflection of the authorized heritage discourse. It developed in response to the need to identify and assess the potential impact of development[1] on archaeology/heritage sites. The demand for HRM has increased exponentially in recent decades and is now responsible for most archaeological work in the province (indeed the world). In Ontario, the heritage resource management industry (as it is sometimes termed) initially took form in the 1970s. Under provincial legislation archaeologists are mandated to excavate, manage, preserve, and protect heritage resources. Archaeologists manage heritage resources to fulfill the professional obligations of their provincial license.

[1] "Impact of development" is associated with the level of cultural heritage value or interest on a specific property and has been determined to require archaeological mitigation because of land alteration and development. In Ontario, there are two "development impacts": avoidance and protection where archaeological sites are preserved intact and excavation of the archaeological resources (MHSTCI 2011a:67).

The vast majority of archaeological sites that fall within the scope of heritage management are expressions of Indigenous heritage. Yet the descendants of those who left those camps and settlements and their belongings (i.e., sites and artifacts) have largely been excluded from the HRM process. For their part, archaeologists have largely failed to acknowledge or accommodate the interests, concerns, and values of Indigenous nations regarding their traditional lands and treaty obligations in Ontario. Although the HRM industry has been slow to recognize and address the greater need for Indigenous involvement, in recent years there has been a growing awareness through local provincial and larger federal initiatives for Indigenous involvement and values regarding archaeology in the province.

In this thesis I explore Ontario's authorized heritage discourse in an attempt to see *how*, *why*, and more broadly *what* can be done to reverse the deleterious impacts of the heritage industry. Current archaeological legislation in Ontario practice standards continue to limit Indigenous involvement in all archaeological work and restrict their ability to share their values, concerns, and interest with cultural heritage. Moreover, the legislation primarily protects Indigenous ancestral sites and artifacts while neglecting intangible heritage that conveys or reflects traditional, cultural, sacred, and spiritual values, and defines their cultural landscapes.

Research Goals and Approach

My thesis aims to better understand the impacts of the authorized heritage discourse on Indigenous nations in southern Ontario and to identify and understand Indigenous concerns about archaeological practice standards under provisions of the *Ontario Heritage Act*. I chose an interview-based strategy, speaking directly with members of three Indigenous nations (and both political factions in the Haudenosaunee/Six Nations Confederacy). I felt there would be no better way to "give voice" than to talk with members of the Indigenous nations that have been affected by past injustices of colonial governments, but which are resilient and strong, and govern their territories in southern Ontario today. I supplemented the interview material with both what I have learned in my own experience working in cultural heritage management in the province, and a literature review I conducted.

The four questions I addressed in this study are:

1. What are the concerns of Indigenous nations when it comes to archaeologists and developers controlling their heritage?

2. What are the concerns of Indigenous nations regarding Ontario's archaeological mitigation practices?

3. What are the current roles of Indigenous nations on archaeological sites during field work in Ontario?

4. How can the practice of engagement with Indigenous nations be more equitable and collaborative?

I approached the representatives of three Indigenous nations to learn about their concerns. Each nation has, for many years, been involved in various ways with cultural heritage management in southern Ontario. I interviewed ten participants who work in various positions for their Indigenous nation to better understand their experiences and opinions on cultural heritage management practice in Ontario. The questions I developed covered such topics as degree of participation, the nature of the consultation process, Indigenous rights, traditional knowledge[2], stewardship[3], and decolonization[4].

Using information provided by these interviews and that which I obtained from archaeological publications, policy reports, and other publications, I sought to produce a critical review of cultural heritage management practices in southern Ontario relative to the involvement (or not) of Indigenous peoples. The results of this study reveal both opportunities for and continuing challenges in Ontario heritage resource management today.

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[2] For the purposes of this study, I use Bruchac's (2014:3814) definition of "*Indigenous* or *traditional knowledge*": "Indigenous knowledges are conveyed formally and informally among kin groups and communities through social encounters, oral traditions, ritual practices, and other activities. They include oral narratives that recount human histories, cosmological observations and modes of reckoning time, symbolic and decorative modes of communication, techniques for planting and harvesting, hunting and gathering skills, specialized understandings of local ecosystems, and the manufacture of specialized tools and technologies (e.g., flint-knapping, hide tanning, pottery making, and concocting medicinal remedies)."

[3] The term "*stewardship*" in this paper is defined as "the act of conserving and preserving the nonrenewable archaeological record for future generations, with the aim of promoting knowledge about the past" (Hollowell and McGill 2014:365).

[4] "*Decolonization*" can be defined as the deconstruction of western or colonial ideals in archaeology (when dealing with Indigenous ancestral heritage) and replacing them with Indigenous perspectives.

Introducing First Nations and the Haudenosaunee Confederacy

Currently there are 126 federally recognized Indigenous communities in Ontario. There are 46 treaties with the British Crown (1782-1930), and treaty rights extend to traditional land use beyond the reservation boundaries (Warrick 2017:96). Additionally, 50 land claims have been accepted for negotiation, three are being researched and assessed, and 11 settlements are being implemented (Ontario Ministry of Indigenous Affairs 2019). The three Indigenous nations with a history of land occupation and shared territories in southern Ontario are: 1) the Anishinabek (Mississaugas of the Credit First Nation); 2) the Haudenosaunee, consisting of (a) Six Nations of the Grand River Eco-Centre [affiliated with Six Nations Elected Band Council), and (b) the Haudenosaunee Development Institute (affiliated with the traditional Haudenosaunee Confederacy Council)], and 3) the Huronne-Wendat peoples (Warrick 2017: 97; Williamson and MacDonald 2015). I introduce each of these nations below.

A Note on Terminology. There were several instances in my interviews where participants indicated how they wanted their Nation to be identified. Following their preferences in this study I use “Indigenous nations” to refer to all three nations involved in the study. “Indigenous nations” from hereafter refers to both First Nations and the Haudenosaunee Confederacy.

The Haudenosaunee

The Haudenosaunee or Six Nations of the Grand River are a community of Iroquoian nations (Mohawk, Oneida, Onondaga, Seneca, Cayuga, and Tuscarora) and other Indigenous nations (Delaware, Tutelo, and Nanticoke) in southern Ontario (Supernant and Warrick 2014:574). Today this community of nations is governed by two parallel political factions: the pre-colonial Haudenosaunee Confederacy and post-colonial Six Nations Elected Band Council. This division is the result of the Government of Canadas disposition of the Haudenosaunee Confederacy under the Indian Act in 1924, replaced by an elected band council (Supernant and Warrick 2014:574).

The Haudenosaunee Confederacy

The Haudenosaunee confederacy is not recognized by Canada as an official First Nation government. Nonetheless, the Confederacy considers itself the rightful government of all

Haudenosaunee people (Supernant and Warrick 2014:576).The Haudenosaunee Development Institute (HDI) represents the interests of the Haudenosaunee Confederacy Chiefs Council (HCCC) when it comes to land development within areas defined by Haudenosaunee jurisdiction. In Ontario, this includes the areas covered by the Haldimand Proclamation[5] (Figure 1), granted to Six Nations in 1784 by the British, and the 1701 Nanfan Treaty[6] (Figure 2). One of the goals of HDI is to protect Haudenosaunee heritage sites: "The HDI's ability to access sacred sites, culturally significant sites, and traditional places for hunting, fishing, trapping, and gathering must not be infringed upon by any development. The HDI seeks to work with developers and regional associations to identify such places well in advance of proposals (Haudenosaunee Confederacy 2020[7]).

Figure 1. The 1701 Nanfan Treaty Land
(Wikimedia Commons 2008: https://commons.wikimedia.org/wiki/File:Nanfan.svg).

[5] The Haldimand Tract was granted by the British Crown to Six Nations people and their allies to show appreciation of their allegiance to the Crown and to compensate loss of land in New York State during the American Revolution (Supernant and Warrick 2014: 574; Six Nations Lands and Resource 2010:2).

[6] The 1701 Nanfan Treaty took place on June 19, 1701, whereby "the Five Nations transferred in trust their beaver hunting grounds to King William III on the condition the Five Nations and their descendants be allowed to hunt freely and the Crown of England protect these lands from disturbance" (Six Nations Lands and Resources 2010:26).

[7](https://www.haudenosauneeconfederacy.com/departments/haudenosauneedevelopment-institute/).

Six Nations Elected Council

The Six Nations Elected Band Council (SNEC) is recognized as a First Nation by the Canadian and provincial governments, and issues concerning the Six Nations cultural heritage are consulted on by its Lands and Resources Department. SNEC has traditional territory in the Haldimand Tract (Figure 1), and also traditional land use territory covering large portions of southern Ontario under the Nanfan treaty (Figure 2) (Supernant and Warrick 2014:).

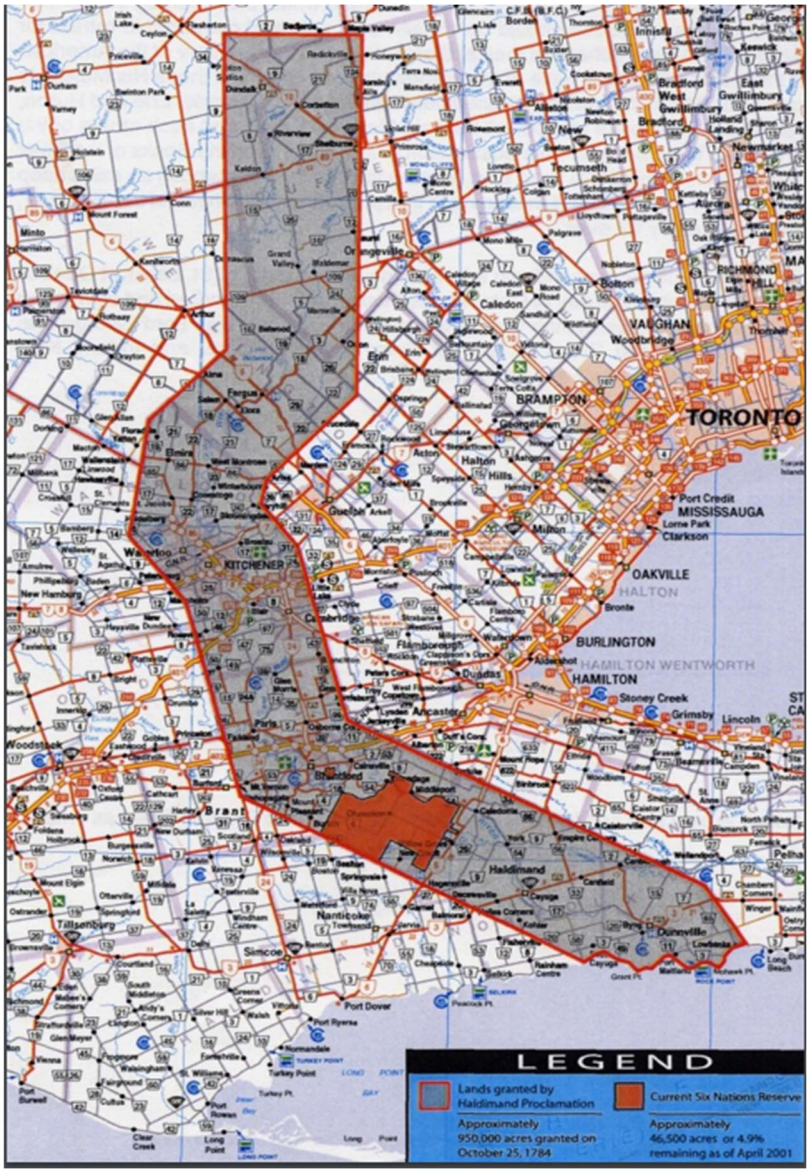

Figure 2. Haudenosaunee Haldimand Treaty Lands
(Six Nations Lands and Resources 2010:2).

Nation Huronne-Wendat

Huronia, the ancestral territories of the Huronne-Wendat people in Ontario, extends from Lake Nipissing to Lake Ontario and from Île Perrot to Owen Sound, Ontario (Figure 3). This territory was occupied until the mid-seventeenth century, with over 800 associated archaeological sites recorded (Nation Huronne- Wendat 2020; Williamson and McDonald 2015:103). One of the Huronne-Wendat Nation's highest priorities is the protection and preservation of their heritage and scared sites (Nation Huronne-Wendat 2020). They are involved mostly in Quebec archaeological consultations simply because of the location of their community, Wendake, Quebec. Currently, the Huronne-Wendat have only a few citizens working in cultural heritage management in Ontario to care for their heritage sites and ancestral burials in Huronia.

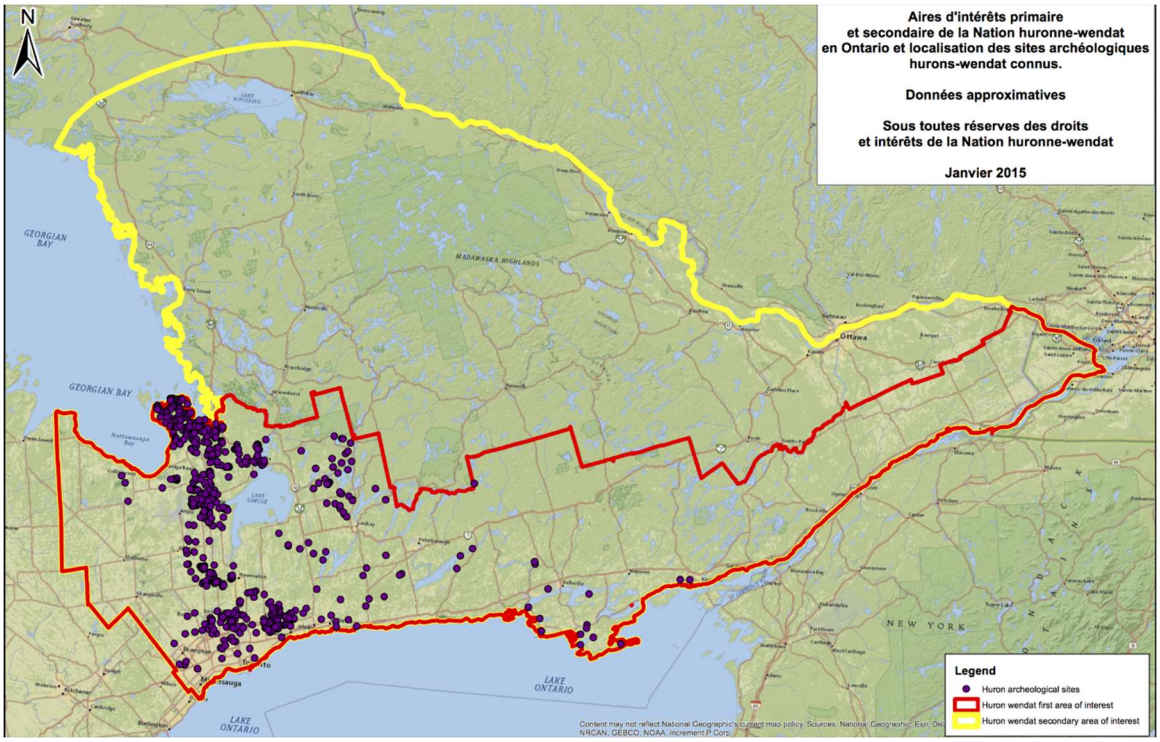

Figure 3. Huronne-Wendat Map of territory and archaeological Interest areas (Nation Huronne-Wendat 2020: https://wendake.ca/cnhw/bureau-du-nionwentsio/wendake-sud-ontario/).

Mississaugas of the Credit First Nation

The Mississaugas of the Credit ancestors occupied lands north of Lake Superior and areas around Georgian Bay before contact with Europeans. By the late 17th century, the Mississauga had settled in southern Ontario (MCFN 2020). The Mississauga have

several treaty lands and traditional territories today. These extend from the “Rouge River Valley westward across to the headwaters of the Thames River, down to Long Point on Lake Erie, and then followed the shoreline of Lake Erie, the Niagara River, and Lake Ontario until arriving back at the Rouge River Valley”(Figure 4) (MCFN 2020). As an expression of their Anishinabek culture, MCFN believe that “Culture resides in the land and water. It resides in people, stories, songs, memories and traditions. It resides in objects, books, reports and records. Places on the landscape hold cultural knowledge. Culture and heritage resides in, and is expressed by, the interaction of people with the land through their traditional practice” (MCFN 2018).

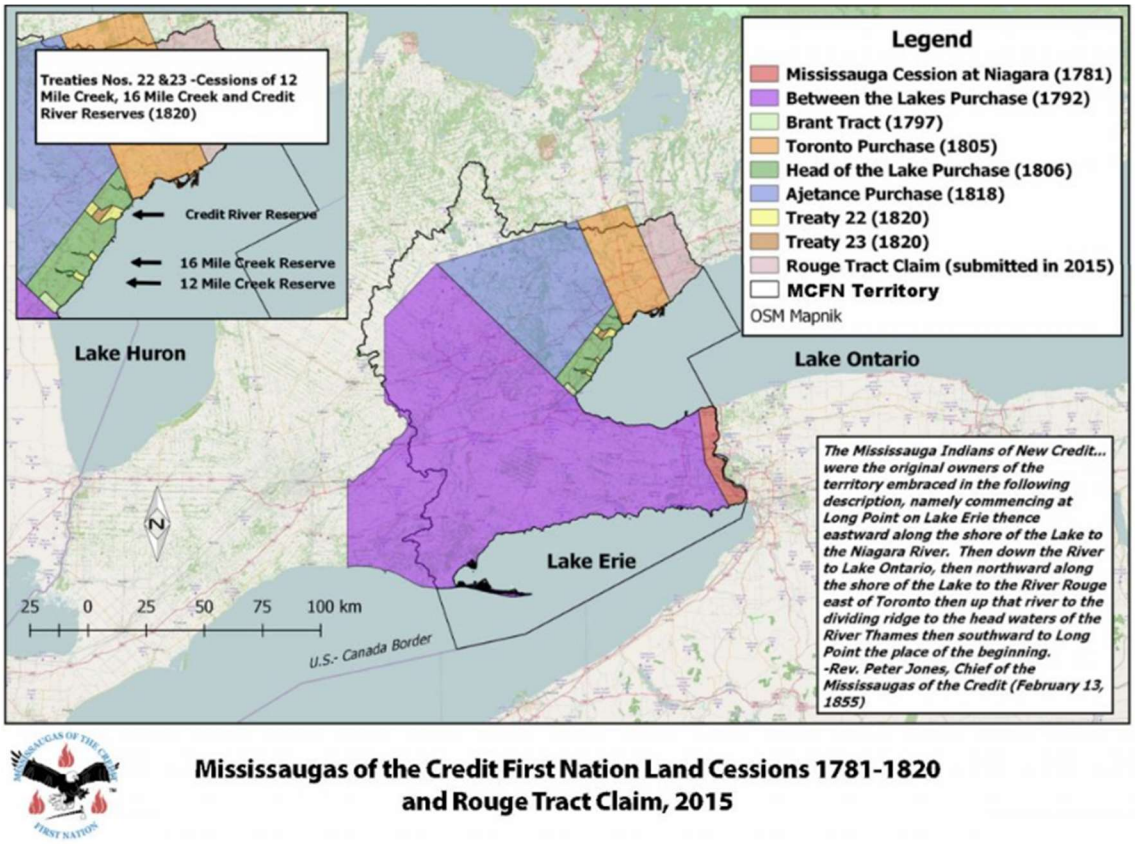

Figure 4. MCFN Territory and Treaty Lands
(DOCA 2018:49 [http://mncfn.ca/wp-content/uploads/2018/04/MNCFN-SGs-for-Archaeology.pdf]).

Thesis Structure

In Chapter 2, I present the literature review in four sections. I begin by introducing the colonial nature of archaeology in Ontario and the lack of Indigenous involvement. I then describe and discuss Indigenous conceptions of “heritage” and what is required for its protection.

In Chapter 3, I describe my research methodology and introduce my interview questions. I also explain the rationale for employing a semi-structured interview approach, and its framework. Participant selection is discussed and the means of data analysis described.

Chapter 4 presents the results of the interviews. Included here is a summary of the themes expressed and an in-depth expression of unique ideas and anecdotes that were shared by the interviewees.

In my final chapter I re-examine my result from the interview process to those in my literature review and primary study questions and present my conclusions and recommendations.

Chapter 2.

The Colonial Context of Indigenous Heritage Management

In settler countries, the colonial roots and westernized implementation of heritage legislation has provided only a limited role for Indigenous peoples in the management of their cultural heritage. For Canada, this is evident at the federal, provincial, and territorial levels, and exemplified in current heritage management policies and practices in Ontario. This chapter reviews why and how heritage management has limited involvement of Indigenous peoples in the cultural heritage management field. I also discuss how Indigenous activism and other efforts advocate for—and with some success—Indigenous control and ownership over their heritage.

I begin with a brief history of colonial assertion and state authority over heritage. I then focus on the situation in Ontario, starting with a brief history of Ontario heritage legislation and the underdeveloped implementation of Indigenous involvement. I conclude by examining responses to these trends through Indigenous conceptions of and approaches to heritage protection.

The Colonial Nature of Cultural Heritage Management

In the early fifteenth century, Columbus' voyages of "discovery" were catalysts for the exploration and colonial settlements of what was known as the New World. Subsequent European maritime explorations from the sixteenth to the eighteenth centuries established colonies throughout Africa, southern Asia, and the Pacific. European settlement became synonymous with the appropriation of Indigenous lands and water (McNiven 2014:1908; Trigger 2006). In settler contexts such as Australia, the United States, and Canada, appropriation not only involved lands and water but also the removal of Indigenous peoples from their land, often through violence (McNiven 2014:1908; Nicholas et al. forthcoming). Indigenous peoples were thus disenfranchised from the landscapes they thrived on for millennia, and the countless heritage sites that were manifestations of their history and identity. This also resulted in the appropriation of

Indigenous sites in the name of science and nationalism (Kehoe 1998; McNiven 2014:1908; Neumann and Sanford 2010:7; Smith 2004, 2006; Trigger 1984).

Colonial Assertion

Today, the relationship between archaeologists and Indigenous peoples is constantly under scrutiny, along with the nature of cultural heritage management. This relationship is influenced by overarching questions about who should have authority over the past and who should speak for the past? Neal Ferris (2003), for example, explores the basis of both colonial and post-colonial assertion of authority over Indigenous territories, including sovereignty over their heritage.

Ferris (2003) provides three rationalizations for the state to assert control over Canada, its Indigenous territories, and, by extension, their Indigenous heritage: 1) *terra nullius*; 2) sovereignty asserted by colonial imposition of authority; and 3) "voluntary" surrender of rights through treaty. *Terra nullius* (literally, "no man's land") was the initial legal argument used to assert authority over the New World and other British colonies such as Australia. This concept resonated with the principles of Social Darwinism, whereby a more "superior" sovereign society asserts its title over a "primitive" society holding land (Ferris 2003:27; Kehoe 1998:69; Smith 2004: 18; Trigger 1984:364). Ferris argues this to be the case in North America, whereby colonial settlement brought Christian missionaries and Western ideologies and the assertion of authority over a non-Western, non-Christian people of North America and eventually their ancestral heritage (2013:156). Early British legal cases in Canada (*St. Catherine's Milling [1888])* and America (*Johnson v. McIntosh [1823] & Martin v. Waddell 1842])* used this same principle to set precedents for state sovereignty occurring at the time of settlement, leaving modern courts reluctant to abandon this way of thinking (Ferris 2003:156-157).

The second rationale for asserting colonial sovereignty is colonial imposition of authority. In Canada, this was done with the Royal Proclamation of 1763[8] (Ferris 2003:157; Hedican 2017:102). The Royal Proclamation was introduced after the Seven Years War,

[8] The Royal Proclamation set legal precedents for European settlement of Indigenous lands in what is now North America. The Proclamation recognized that "Indian and Inuit peoples were the original, sovereign inhabitants of this country prior to the arrival of the European colonial power" (Hedican 2017:102, citing Indian Claims Commission 1975:6).

which led to Britain becoming the primary European power after defeating France. It would “define and secure” Indigenous sovereignty and their relationship with the Crown, however it would also bind them to the Crown (Ferris 2003:157). The Royal Proclamation in this sense holds colonial underpinnings as its underlying façade was to assign the colonial body “supreme legal authority” (Ferris 2003:157) in order to control Indigenous affairs and to enact British law over land (Borrows 1997:159-161).

Ferris’s third rationale of asserting colonial sovereignty is nation-to-nation treaty negotiations, whereby land rights could only be negotiated between Britain and First Nations. This required that any assertion to land by the Crown had to come through “voluntary” surrender of rights through formal treaty negotiations with Indigenous nations. Ferris also notes that the introduction of the Royal Proclamation and the treaty negotiation process would obligate the Crown to hold a level of responsibly and liability to Indigenous peoples, in which their actions could be measured against, especially important for legal rulings in the 20th century (Ferris 2003:158)

Irrespective of the new legal precedence that recognized and defined relationships with Indigenous peoples through negotiation of sovereign treaties, the process would be abandoned. Sovereign treaty negotiations would come to a halt in Canada in the early twentieth century, Miller (2009: 513) outlined reasons for their hiatus. Federal attitudes towards First Nations were deteriorating due to previous treaty demands and a growing belief that First Nations were “dwindling noticeably in numbers because of disease, assimilation, and enfranchisement”[9]. Another factor was national economic interests, as Canada (and British Crown) was busy digesting its enormous territory acquired between 1871 and 1921 through the numbered treaties negotiations with Indigenous peoples (Miller 2009:513).

[9] This extensive history is compounded with oppressive and exclusionary tactics such as the Indian Act, reserve systems, residential schools, displacement, and imposition of elected band councils countered by Indigenous people’s self-determination, resilience and nationhood against the Canadian State (Dent 2016:40). All-encompassing are factors in contemporary developments involving Indigenous communities.

Early Rationale for State Authority

The rationalization of colonial and post-colonial governments for assuming authority over Indigenous peoples and their heritage can be linked to early constructions of history. The idea of Social Darwinism and its dissemination by influential elites had massive impacts on the justification of colonialism (Kehoe 1998:21-39). For example, John Lubbock, an English antiquarian and author influenced prehistoric archaeology through his popular (at the time) publications, including *Prehistoric Times,* and later evolutionary-oriented interpretations that applied social Darwinism; he labeled Indigenous peoples as "primitive," considering them to be biologically and culturally inferior and ultimately doomed to extinction. Lubbock's ideas would reinforce the British colonization of North America as political and economic control was attributed to the general progress of the human species (Kehoe 1998:58; Trigger 2006:175). Lubbock's work would later influence Lewis Henry Morgan, both sharing views on the inferiority of Indigenous peoples of the Americas and their biology and culture "arrested in development" (Smith 2004:18).

The idea of Indigenous peoples as primitive was also associated with the wilderness of North America, which was something to be tamed by colonial expansion (Smith 2004: 18). American evolutionary archaeology would reinforce the denigration of Indigenous society by linking back to primitiveness and presumed Indigenous inability to change or be capable of creativity (Kehoe 1998:69-70; Trigger 2006:177). One of many examples is the extinct "mound building" culture (Kehoe 1998:164-165). For 19th-century antiquarians, it was believed that this "mysterious" (to them) culture could not be related to Indigenous populations because of the" impressive earthworks demanded a high level of industry beyond that exhibited by local Indians" (Yellowhorn1996:25). Ultimately, as scientific approaches and resources were pooled towards archaeological research in North America, the understanding of Indigenous cultural complexity and land occupation grew (Ferguson 1996:65; McNiven 2014:1909-1910).

Contemporary Authorized Heritage Discourse

The development of the authorized heritage discourse (Smith 2004, 2006) has its origins in conservation and preservation of antiquities primarily based on nationalism, coupled with a scientific pursuit for society as a whole. For example, in the United States, early

manifestations of this preservation began in the nineteenth century and were patriotic endeavors concerned with preserving historic buildings and battlefields (where important people and events took place) defining a sense of American identity (Elia 2014:7486; Neumann and Sanford 2010:7). Likewise, in Canada, the Historic Sites and Monuments Board was formed in 1919 by countrywide experts to "advise and inform the federal government of sites and themes of national historic significance and to recommend important properties for site designation" (Burley 1994:79). These efforts have today fostered a state of cultural heritage management that is viewed by Laurajane Smith (2006:11) as:

> a discourse that naturalizes the practice of rounding up the unusual suspect to conserve and "pass on" to future generation and in so promotes a certain set of Western elite cultural values as being universally applicable. Consequently the discourse validates a set of practices and performances, which populates both popular and expert constructions of heritage and undermines alternative and subaltern ideas of heritage.

In the United States, discussions about heritage preservation laws began in 1892 with pressures of Native American sites (e.g. preserving prehistoric Pueblo Casa Grande, New Mexico). The primary concern was the presence of looters, and avocational archaeologists commercially exploiting and vandalizing Indigenous cultural heritage sites (Elia 2014:7487). The *Antiquities Act* of 1906 was a precursor of the modern authorized heritage discourse in the United States. The *Antiquities Act* was the first protective legislation for 'antiquities' and archaeological sites in North America. Smith (2004:129-130) states that it enabled systematic and regulated activities in four ways: 1) it allowed policymakers to regulate archaeological conduct; 2) it defined archaeology as a discipline centered on systematic and controlled research for the public good; 3) it established a stewardship role for archaeology in preserving the "dead" past and ensuring it could be used for future generations; and 4) from the association of Indigenous heritage with archaeology, the act positioned Indigenous material culture as part of American history. The act provided the framework for future policy in the United States including the National Historic Preservation Act (1966), Archaeological Resources Protection Act (1979). The National Historic Preservation Act would transform the management of cultural heritage in the United States. The act is considered an effective tool for the protection and management of historical sites, landscapes, and archaeological resources on both federal and state levels. It is also renowned for establishing the National Register of Historic Places and for its encouragement in state

creations of State Historic Preservation Offices to aid in duties of preservation and management, local, in heritage resource management (Elia 2014:7887-7488). Canada would follow, mandating provinces to legislate the protection and conservation of heritage including archaeological site databases stressing nationalism and conservation of cultural heritage for citizens, requiring archaeology to be done prior to any land altering activities. Federal heritage policy in the United States and provincial policies in Canada would not only restrict access to their tangible cultural past for the general public but also the living Indigenous peoples who are connected with it (Thomas 2000:142).

The protection of cultural heritage under the auspices of the government and professionals creates an environment where heritage becomes a government tool. Megan Devries notes, it is a tool that can be used to "define and legitimize the identity, experiences, and socio-cultural standing of subnational groups" (2014:94). Cultural heritage when defined by "archeobureaucrats" (Dent 2012:39), primarily identifies "aesthetically pleasing material, objects, sites, places and/or landscapes that current generations 'must' care for, protect and preserve so that they may be passed to nebulous future generations for their 'education,' and to forge a sense of common identity based on the past" (Smith 2006: 29).

Today, many Indigenous peoples are still trying to dispel the myth of a vanishing race disseminated by late 19th-century archaeologists and anthropologists (McGuire 1992:817-830; Trigger 2006:175-176). They call for authority over their cultural heritage, important in both political and cultural recognition (Asch 2008:394-395). Indigenous nations see tangible and intangible heritage as symbolic to their identity and cultural claims, however, with privileged access held by the government and archaeologists, it may be used to grant, exclude or control that legitimacy (Smith 2006:282). In contrast, for many Indigenous nations, their history and culture are already known and passed down through oral history and tradition, and archeological interpretation adds little to their historical knowledge (Settee 2011:436;). However, archaeology is embedded in a Western science framework, so oral traditions and knowledge alone are not readily accepted for Indigenous cultural claims. For example, the *Delgamuukw v. British Columbia (1997)* Supreme Court of Canada case, which requires that oral history be given legitimacy in court, is still not sufficient to counter government claims (Warrick 2012:153). Moreover, there is growing recognition that oral history and archaeology can and should be used to counter government claims and colonial historical documents,

although this requires that the archaeologist accepts Indigenous knowledge, while also relinquishing some stewardship over the past (Warrick 2012:153).

Indigenous Rights over Land and Heritage

The broader narrative that persists in all Canadian jurisdictions is one that Joshua Dent (2016) suggests revolves around "sovereign states, rule of law and interpretation of treaty and constitutional rights held by First Nations, understood to arise from the very colonial process of Canada's nations building" (2016:39). The Supreme Court of Canada plays the primary role in the interpretation of Crown fiduciary responsibilities to First Nations, including the "duty to consult" on governance decisions affecting Aboriginal rights." The emergence of consultation and engagement of Indigenous peoples in twenty-first century archaeology hinges on this process (Dent 2016:39).

The *Constitution Act* (1982) was largely the result of Indigenous activism[10] seeking the restoration of Indigenous rights within the new Canadian constitution under Section 35:

> 35. (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.
>
> (2) In this Act, "aboriginal peoples of Canada" includes the Indian, Inuit, and Metis peoples of Canada.
>
> (3) For greater certainty, in subsection (1) "treaty rights" includes rights that now exist by way of land claims agreements or may be so acquired.
>
> (4) Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons.

The *Constitution Act* recognizes and affirms Aboriginal rights, but does not define them. Table 1 identifies key developments regarding Aboriginal rights in Canada.

[10] Section 35 of the *Constitution Act* was not included in the initial proposal for patriating in 1980 (Hanson 2019). There was little to no consultation of Indigenous people. This greatly concerned Indigenous people as they believed their rights could be extinguished in the transfers of constitutional power from Britain to Canada. This started a wave of Indigenous activism by Aboriginal organizations and activists joining "demonstrations, fundraiser and campaigns "to fight for their rights in the constitution" (Hanson 2019: https://indigenousfoundations.arts.ubc.ca/constitution_act_1982_section_35/)

Table 1. Supreme Court of Canada cases and the development of Aboriginal rights.

Supreme Court of Canada Case (SCC)	Outcome
R. v. Calder v. Attorney General British Columbia (1973)	The first case in the Canadian legal system to recognize Aboriginal title. The SCC ruled that Aboriginal title existed at the time of the Royal Proclamation, i.e., 1763. This also initiated the Federal government's comprehensive land claims process (Hanson 2019).
Guerin v. the Crown (1984)	Aboriginal title imposed an enforceable fiduciary duty upon the Crown. Aboriginal land rights are "inalienable" recognizing the crowns obligation to First Nations on such interests (Ferris:2003:169).
R. v. Sparrow (1990)	Upheld Sections 35 Aboriginal and Treaty Rights and acknowledged the government's responsibility to protect the cultural identity of Aboriginal peoples regarding fishing rights but can be argued their responsibility should extend to archaeological heritage (Ferris 2003:169).
Delgamuukw v. British Columbia (1997)	Affirmed "inalienable" Aboriginal title to land could not be infringed upon unless justified by compelling societal needs (Devries 2014:15). Decision required meaningful consultation between the Crown and First Nations, which established the legal concept of "consultation" as crucial to the Crown fiduciary obligations to Canada's First Nations (Dent 2016:44).
Donald Marshall Jr. v. Canada (1999)	Established that the duty to consult extended to all surrendered public and private property. The Supreme Court reiterated that the Crown had the responsibility to honor treaty rights, and now specified Aboriginal interest in archaeological heritage (Ferris 200:169).
Kitalta Band v. British Columbia (2002)	Approved the Crown's responsibility to balance heritage and societal growth and resource extraction (Ferris 2003:170). The court would implicitly endorse the role of the Crown as steward of the archaeological record, though not without responsibility to Aboriginal interests (Devries 2014:16).
Haida Nation V British Columbia (2004);Taku River Tinglit First Nation v. British Columbia (2004); Miskisew Cree First Nation v. Canada (2005)	Confirmed the Crown's duty to "consult meaningfully" and to accommodate" the interests of First Nations even where a claim had not yet been proven" (Six Nations Council 2015:10).
Tsihlqot'in (2014)	"Recognized unextinguished Aboriginal title to land not covered by treaty," making the government to seek approval from Frist Nations in those areas (Dent 2016:46).

Modern Crown obligations to Indigenous peoples are affected by the outcomes of these legal decisions and of Section 35 of the *Constitution Act*. Dent (2016) states that "legal definition of archaeology as 'Aboriginal right and title' has yet to be formally addressed, the implications of archaeology's association with Indigenous heritage has long been anticipated as requiring the Crown to actively consult, or even defer to, Indigenous peoples over archaeological management regimes and ownership of this material heritage" (Dent 2016:47). He concludes that if Canada were not to consult, it could risk upsetting governance and environmental assessment should the Crown or the Supreme Court ever decide heritage as an "Aboriginal right" (2016: 48). Moreover, if a federally recognized First Nation has a concern over their Aboriginal right or traditional territory, then the government is obligated to consult the nation. Although this has not been formally litigated in a heritage-related context, the government federally and provincially needs to proceed with caution on Aboriginal rights matters.

Two other developments that are slowly impacting Ontario HRM are the Truth and Reconciliation Commission of Canada (TRC) 94 "calls to actions" and related United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). The Truth and Reconciliation Commission of Canada spent over 5 years (2007-2015) collecting data from all over Canada about history and legacy of the Canadian governments past injustices against Indigenous people (Government of Canada 2019). These injustices were central goals to Canada's Aboriginal policy for over a century and are detailed in the final report. These policies can best be described as "cultural genocide" where the goal was "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. The establishment and operation of residential schools were a central element of this policy" (TRC 2015:1).The 94 "calls to action" detailed in the report are divided into two sections: legacy (1-42) and reconciliation (43 to 94).The report looks to move forward the process of recognition and reconciliation for past injustices between Canada, its citizens and government levels and Indigenous people. Although all "call to actions" are essential in reconciliation efforts, implementing actions 43 and 44 adopting and developing UNDRIP as a framework for reconciliation would impact the Ontario HRM industry greatly when it comes to Indigenous involvement with their ancestral heritage. UNDRIP defines Indigenous rights to include control and ownership of heritage. Canada announced its

unqualified endorsement of UNDRIP in May of 2016, prompted by the Truth and Reconciliation Commission of Canada 94 “calls to actions”. The intent the endorsement was to implement UNDRIP’s articles in accordance with Section 35 of the Canadian Constitution, which recognizes and affirms Indigenous and treaty rights (Warrick 2017:94). Of particular importance are several articles that have direct relevance to Indigenous consultation, control, and ownership of heritage (Table 2).

If the UNDRIP articles are implemented in accordance with the Canadian Constitution, it would not only mandate that Indigenous peoples be involved with their heritage but could also result in the return to them of ownership and control of their ancestral past. For now, the long-term impacts of Canada’s endorsement of UNDRIP are not known but implementation of UNDRIP would call on provincial governments at minimum to include Indigenous nations in all heritage matters on treaty lands and to revise provincial heritage legislation.

Codes of Ethics in HRM

Codes of ethics in HRM have been influenced by Indigenous rights and past injustices on Indigenous people in Canada. Below Table 3 presents relevant codes of ethics from the Canadian Archaeological Association (CAA), the Ontario Archaeological Society (OAS), and the Association of Professional Archaeologists (APA) in Ontario when it comes to Indigenous involvement in HRM. To become and remain a member of the above organizations, an archaeologist must follow and abide by their ethical codes in practice.

Table 2. Key UNDRIP Principles (United Nations 2008).

Article 11	This Article affirms that Indigenous peoples have the right to revitalize and practice their cultural traditions and customs, including "the right to maintain, protect and develop the past present and future manifestations for their cultures, such as archaeological sites, artefacts" (p. 6).
Article 12	Affirms the right to "repatriation of human remains." It also notes the state "shall seek to enable the access and/ or repatriation of their human remains" (p. 6).
Article 26	Affirms rights to land. "Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired" and "the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired" (p. 10).
Article 27	Requires that "States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process" (p. 10).
Article 31	Affirms that "Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions" (pp. 11-12).
Article 32	1. "Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources." 2. "States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources." 3. "States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact" (p. 12).

Table 3. Relevant codes of ethics demonstrating Indigenous involvement in Ontario HRM.

CAA	Consultation: • "To recognize the cultural and spiritual links between Aboriginal peoples and the archaeological record. • To acknowledge that Aboriginal people have a fundamental interest in the protection and management of the archaeological record, its interpretation and presentation. • To recognize and respect the role of Aboriginal communities in matters relating to their heritage. • To negotiate and respect protocols, developed in consultation with Aboriginal communities, relating to the conduct of archaeological activities dealing with Aboriginal culture" (CAA 2020). Aboriginal Involvement: • "To encourage partnerships with Aboriginal communities in archaeological research, management and education, based on respect and mutual sharing of knowledge and expertise. • To support formal training programs in archaeology for Aboriginal people. • To support the recruitment of Aboriginal people as professional archaeologists" (CAA 2020).
OAS	• "As archaeologists, we recognize that we have special obligations to any Indigenous or Descendant community whose cultural legacy is the subject of our investigation" (OAS 2017b). • "We affirm that Indigenous communities have an inherent right to practice stewardship over their own cultural properties (including but not limited to: archaeological, spiritual, and historical sites, artifacts, designs, ceremonies, technologies, visual and performing arts, oral traditions and written and oral literature) and that said stewardship includes the right to maintain, control, protect, develop and have access to those properties" (OAS 2017b). • "We acknowledge the profound relationship between Indigenous communities and their cultural properties regardless of legal ownership" (OAS 2017b). • "We will take all reasonable efforts to obtain the free, prior and informed consent of representatives of Indigenous communities or Descendant groups prior to taking any steps in the investigation or management of their cultural properties" (OAS 2017b). • "We will respect the customs and traditions of Indigenous communities regarding the treatment of ancestors" (OAS 2017b).
APA	• "Section 1(3): To respect and encourage the interests of native groups in their heritage and consult with recognized descendant groups or their representatives in any situations involving treatment of human remains" (APA 2015).

As demonstrated above, the ethical codes of conduct, if an archaeologist becomes a member, can have an impact on Indigenous involvement and play a part in reconciling past injustices to Indigenous people by recognizing and involving nations in HRM projects on their traditional and treaty territory. In Ontario, it is important to note that a requirement for an archaeological license is to be a member of one professional organization. For example, one of the above organizations would fulfill the requirement.

Overall, codes of ethics play an important part in Ontario HRM as the industry moves to be more cognizant of rights and past injustices on Indigenous people.

Cultural Heritage Management Industry in Ontario

In Ontario, over 95% of archaeology in the province is associated with heritage resource management prior to development of housing, infrastructure, renewable energy facilities, quarrying and other land altering processes (Warrick 2017:91). The majority of archaeological sites excavated every year in the province are Indigenous; that amount was already over 80% in the early 2000s (Ferris 2003:167) but now is appreciably higher. Today, Ontario is experiencing rapid urban development, resulting in a highly active for-profit heritage resource industry. In this section I comment on the current heritage discourse in Ontario and its impacts on Indigenous Involvement. Critical reviews of the development of cultural resource management in Ontario include Dent (2012, 2016), Devries (2014), Ferris (1998, 2003, 2007), and Noble (1982).

The Rise of Ontario's Authorized Heritage Discourse

Ferris (1998, 2007) and Dent (2016) suggest that large-scale development in Ontario has been influenced by the economic boom post-World War II. This economic growth was fueled by growing immigration rates and increasing demand for natural resource extraction. In response to the impacts of these factors on the archaeological record, the *Archaeological and Historic Protection Act* (AHSPA) was created in 1953. This act defined who could alter sites and remove objects from archaeological and historic sites (Dent 2016:18). Dent also notes that this first piece of provincial heritage legislation was significant because its measures would "later be adapted to the preservation of the archaeological record in the face of encroaching development" in Ontario (2016:18).

In 1974, Ontario introduced the *Ontario Heritage Act.* The Act arose from the *Archaeological and Historic Protection Act* and would begin the authorized heritage discourse in Ontario in two ways. First, it recognized archaeology as Ontario's heritage, making the conservation of archaeological resources a provincial interest and responsibility. Second, the legislation required a license to conduct archaeological field work and submit reports (Ferris 1998:227). These requirements created a new government department to administer licenses and provide oversight over

archaeological practice. Importantly, Ferris (1998: 227) notes that the "the centralization of archaeological and heritage conservation under one act, and the placement of expertise within one ministry" created expert positions for archaeologists where they could ""sell" archaeology directly to the law and policy makers in the government."

The development of HRM in Ontario was a response to salvage archaeology and a growing number of development applications through land use planning process (archaeologists convincing provincial agencies or particular municipal planning approval to address archaeological concerns played a large factor) (Ferris 1998: 235). The provincial *Environmental Assessment Act* (EA) was introduced in 1975 and the *Planning Act* in 1982[11]. Incorporated into all legislated development processes was the "proponent pay provisions." Along with OHA archaeology licensing requirements, those provisions would force developers, private and public, "to respond to increased requirements for archaeological conservation by hiring consultant archaeologists" (Ferris 1998:235) The first archaeological consulting firm in Ontario was created by Dean Knight and Peter Ramsden (Dent 2012:20).

At this time, the OHA and its licensed archaeologists were not required to uphold a minimum standard of fieldwork practice. In 1985, the absence of archaeological practice guidelines resulted in "a spectrum of questionable field methodologies" *(*Dent 2012:72). The Ministry (Government of Ontario 2019), what is today the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) would consult with the archaeology community and create its first technical standards of practice, the *1993 Archaeological Assessment Technical Guidelines (*Dent 2012:72; Ferris 2007:86). This document was the first to acknowledge that "Aboriginal communities" may have an interest in archaeological sites. However, the guidelines offered no specific recommendations or requirements to consult with interested Indigenous nations. The citing of "Aboriginal communities" was the first in Ontario legislation. From this point forward, activism for

[11] The early iterations of both these acts would be fundamental in dealing with growing concerns for conservation of Ontario's archaeological record in larger public development. The EA Act, "stated that adverse impacts caused by an environmental assessment project on a host of features, including "… any building, structure, machine, device or thing made by Man…" would be assessed" (Ferris 1998:229). The *Planning Act* similarly states "the conservation of significant architectural, cultural, historical, archaeological or scientific interest" would need to be considered by provincial authorities regarding approval for development of subdivisions and housing projects (Ferris 1998:229).

Indigenous people's involvement with heritage would slowly develop and be reinforced by the broader narrative of Indigenous activism for their rights.

Current Ontario Heritage Policy

Devries (2014) has suggested that the numerous reviews of the state of consultant archaeology commissioned by Ontario during the late 20th century can be partially attributed to "increasing Aboriginal concerns about archaeologists' unchallenged authority over cultural resources." The *Ontario Heritage Policy Review* and *the Red Tape Review Commission* would result in the *Archaeological Customer Service Project* (ACSP) in 2000. The ACSP objective was to revitalize the industry through a number of initiatives, including creating transparency in business practices, building rapport between provincial and licensed industry archaeologists, removing barriers in policy regulation, and, of direct significance to this thesis, acknowledging increasing Indigenous involvement in heritage resource management[12] (Dent 2012:75; Devries 2014:19). The ACSP review also identified the need for a *Standards and Guidelines for Consultant Archaeologists,* which is consistent with the standard in the province of Ontario today (Devries 2014:18). This document outlines minimum standards for conducting archaeological work. Additionally, the optional "guidelines" were also included in the document to provide "additional clarification while continuing to allow for the exercise of professional judgement" (Dent 2012:75).

In Ontario today, on both private and public lands an archaeological resource assessment is required in the land-use planning and development process (Williamson 2010:10). These assessments are managed by the (MHSTCI), guided by the *Ontario Heritage Act*, the Ontario *Planning Act*, and the Ontario *Environmental Assessment Act*, each of which I briefly review below. Other secondary legislation that provides opportunities for archaeological resource protection are the *Aggregate Resources Act* and the *Cemeteries Act* (Williamson 2010:21-22).

[12] Contributing to the acknowledgement of increasing Indigenous Involvement and later the implementation of the (2011) *Draft Technical Bulletin on Engaging Aboriginal Communities in Archaeology* were the 1995 Ipperwash 1995 and 2006 Caledonia land disputes (Devries 2014; Ferris and Welch 2015:82, respectively).

Ontario Heritage Act (OHA)

The Ontario Heritage Act "determines policies, priorities and programs for conservation, protection, and preservation of heritage in Ontario" (Government of Ontario 1990a). The act manages all archaeological practice, from fieldwork to reporting and engagement with Indigenous communities, by issuing an archaeological license accredited by the MHSTCI. The licensee's archaeological activities are highly regulated by the MHSTCI 2011 *Standards and Guidelines for Consultant Archaeologists* and influenced by secondary draft bulletins such as the (2011) *Draft Technical Bulletin on Engaging Aboriginal Communities in Archaeology.*

Ontario Planning Act

The Ontario *Planning Act* (1990) and its issued Provincial Policy Statement (PPS) sets out regulations for land-use planning in Ontario (Government of Ontario 2020:1) with the latter providing an overall "policy direction on matters of provincial interest". The provincial government provides oversight to municipal governments where archaeological features are monitored within their regions. Planning and land-use control are the main concerns of municipalities, by extension, land use decisions on archaeological resources often occur, as locally approved developments constitute the majority of the projects (Williamson 2010:11). Under the *Planning Act,* Part I Provincial Administration Section 2[d] Provincial Interest*,* "the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest" are considered provincial interest (Government of Ontario 1990c). Protection of cultural heritage and archaeology is outlined in the *Provincial Policy Statement (2020)* (Part V: Policies 2.6 Wise Use and Management of Resources) as a dependent for Ontario's long-term prosperity, environmental health, and social well-being depend on conserving biodiversity, protecting the health of the Great Lakes, and protecting natural heritage, water, agriculture, minerals, and cultural heritage and archaeological resources for their economic, environmental, and social benefits (Government of Ontario 2020:24).

Ontario Environmental Assessment Act

The purpose of the *Environmental Assessment Act (1990)* is "the betterment of the people of the whole or any part of Ontario by providing for the protection, conservation and wise management in Ontario of the environment." The definition of "environment" extends to "the social, economic and cultural conditions that influence the life of humans

or a community and any building, structure, machine or other device or thing made by humans" (Government of Ontario 1990b). While the act applies predominantly to the public sector, projects in the private sector can also be designated (Williamson 2010:20).

Indigenous Ethical Engagement and Consultation in Ontario

Engagement and consultation in Ontario manifests itself through three main pieces of legislation and other supporting documents (Dent 2016:67). Identified below is the primary legislation that mandates Indigenous involvement in consultant archaeological practices in Ontario. Below, I introduce the OHA overall engagement mandate through the archaeological provincial license. Next, I identify the triggers for Indigenous consultation in the EA and *Planning Act*. Finally, I discuss overall policy restrictions on Indigenous involvement due to the authorized heritage discourse in Ontario.

OHA Engagement Obligations

The OHA and *Draft Technical Bulletin on Engaging Aboriginal Communities in Archaeology* both acknowledge Indigenous interest in archaeological and cultural heritage. They define engagement as "involving Aboriginal communities in each stage of an archaeological project, to the extent and manner that best suits their interests and needs of a project" (MHSTCI 2011b:1). However, the bulletin fails to reference the "duty to consult" afforded to First Nations by the *Constitution Act* section 35 treaty rights[13].The OHA has no explicit requirement to engage with Indigenous peoples in archaeological activities. Ontario archaeologists, through their professional licenses, are obligated to follow the 2011 *Standards and Guidelines for Consultant Archaeologists* and 2011 *Engaging Aboriginal Communities in Archaeology: A Draft Technical Bulletin for Consultant Archaeologists in Ontario*. Both of these documents are prescriptive, requiring a licenced consultant archaeologist to meet the minimum standard practice and engagement protocols in Ontario in all four stages of archaeological fieldwork (Table 4).

[13] The duty to consult and accommodate is afforded to First Nations from the protection of Aboriginal and treaty rights, as outlined in *Section 35(1) of the Constitution Act, 1982*.

Table 4. Stages of archaeological field work and associated recommended Indigenous engagement.

Fieldwork Stage	Description	Indigenous Engagement
1. Background study	A Stage 1 assessment includes the study of geographic, land use, and historical information for a property and the surrounding area. A property survey to supplement the study is encouraged (MHSTCI 2011a:6).	encouraged
2. Property Assessment	A Stage 2 assessment is the survey of a property conducted to identify any archaeological resources that may be present.	encouraged
3. Site-specific evaluation	A Stage 3 assessment is described as: "…mapping the surface extent of each archaeological sites and excavating a number of test units and/or test trenches. The goal is to accurately determine the spatial extent of the archaeological sites, to more completely evaluate their cultural heritage value and interest, and where necessary to make recommendations for conducting Stage 4 strategies to mitigate development" (MHSTCI 2011a:6).	required
4. Mitigation of development impacts	A Stage 4 includes protection strategies for archaeological sites subject to land use and development. If long-term site protection is not a viable option, then the consultant archaeologist will excavate and document the archaeological site by removing the archaeological remains before construction (Government Ontario 2011a:6).	required

Moreover, engagement with Indigenous communities is required both by the ethics shift of the Ontario Archaeological Society and as a condition of the license for consultant archaeology. Engagement practices through the OHA mean reaching out to Indigenous nations and notifying them of archaeological practices within their traditional territory or areas of interest. In most situations today where such practices are implemented in the archaeological field work stages, Indigenous monitors or liaisons are employed to represent their Indigenous nation in the field directly.

Indigenous representatives on archaeological sites in Ontario are not a legal requirement (Warrick 2017:92). Nonetheless, Indigenous monitors represent First Nations interests and values on most archaeological projects in Ontario. The introduction of Indigenous monitors on archaeological sites began in 2002, during the Red Hill Creek Expressway project in Hamilton (Warrick 2017:93). It is important to note that the introduction of Indigenous monitors does not mean First Nations condone land development and erasure of their heritage landscapes but it does provide an opportunity

to participate in archaeology in Ontario (Warrick 2017:93). The growing trend of monitors actively participating in archaeology in Ontario is seen as a positive development. Although Indigenous inclusion in Ontario archaeology is not legally required, Ontario archaeologists are aware of the tenets of Indigenous archaeology and try their best to work in close collaboration with Indigenous nations while meeting the expectations of their client (Nicholas 2008:1660; Warrick 2017:92).

Environmental Assessment and Planning Act

Ontario's *Environmental Assessment Act* and the Ontario Provincial Policy Statement can trigger the province's "duty to consult" on treaty lands (2014).[14] If a project is large enough to require an environmental assessment, then proponents are required to consult with impacted First Nations about the project. Likewise, the Ontario Provincial Policy Statement enables municipal planners under the *Planning Act* to take on the Crown's "duty to consult" decisions and responsibilities without formally transferring that authority from the provincial to municipal level (Dent 2016:68).

Regardless of the outcome of the consultation discussion between provincial authority and First Nations, Ontario consultant archaeologists will always have the responsibility under their Ontario archaeological licence to fulfill the requirements set out by the provincial Standards and Guidelines and the associated engagement bulletin.[15] Consultation and engagement have been inconsistent, although they have provided initial steps forward for Indigenous involvement, they still restrict Indigenous peoples access to and control of their ancestral heritage.

Overall Heritage Policy Restrictions on Indigenous involvement

Devries (2014) argues that Ontario's policy for engagement is inadequate for three reasons. First, she notes that in the production of the *Standards and Guidelines for Consultant Archaeologists*, Indigenous nations were poorly consulted, neglecting their primary concerns and interests (2014:107). This sentiment is echoed by Michael Henry

[14] The Provincial Policy Statement is defined as "a consolidated statement of the government's policies on land use planning" that is issued under Section 3 in the *Planning Act.*

[15] An archaeologist does not represent the government or other approval authority (i.e., municipal planning authority) and is not legally subject to the duty to consult even though they represent the provincial government and adhere to their archaeological licensing (Dent 2012:78; Devries 2014:21).

who stated that many members of the consulting community offered feedback on best practices in developing the document, but their input was never discussed or debated until after the draft had come to fruition (Henry 2008:2). Of more concern is that the consulting community set best practices in engaging Indigenous nations without consulting them. Henry (2008: 3) states that "we have today a situation where bureaucrats, archaeologists, planners, lawyers and developers are developing ways and means of consulting First Nations without ever troubling ourselves to ask the most qualified persons how it is they wish to be included."

Second, Devries (2014) suggests the primary interest between proponent (land developer), archaeologist and First Nation could develop over the course of engagement. For example, she notes that the current provincial policy "allows human remains to be relocated, although Aboriginal communities do not want those remains to be disturbed" (2014:107). [16] This is further discussed below in the context of Indigenous conceptions and approaches to heritage protection.

Finally, the *Standards and Guidelines for Consultant Archaeologists* require engagement with Indigenous nations only during Stage 3 archaeological assessments versus at the beginning of a project. Devries also notes that Indigenous participants advocated for engagement from the start of a project or earlier, and wanted the process to be more holistic, mutually beneficial, and informative (2014:107).

Overall, Devries' study of *Cultural Resource Management and Aboriginal Engagement: Policy and Practice in Ontario* concluded that the province should recognize its deficiencies in provincial policy when it comes to interests of Indigenous nations. In addition, the province needs to relinquish some control in decision making when it comes to policy as there are better suitors for developing heritage policy in tandem, namely archaeologists in partnership with Indigenous peoples (Devries 2014:108).

Today, Ontario's archaeology policy appears outdated, given the continued exclusion of Indigenous people from their ancestral heritage through the provinces authorized heritage discourse. In this context, Indigenous engagement is primarily part of ethical

[16] The discovery of Indigenous burials during archaeological field work or land disturbance falls under the *Funeral, Burial and Cremation Services Act*. Burials are usually preserved in situ. When this is not possible, the remains are removed and reinterred as close as possible to the original location (Warrick 2017:92).

engagement by the archaeologists and Indigenous people's activism and by such legal developments as the Supreme Court of Canada decisions redefining consultation requirements, the *Environmental Assessment Act*, and the Ontario' Provincial Policy Statement. However, most archaeologists are aware of Ontario's outdated provincial policy and acknowledge the need for reform relative to the Truth and Reconciliation 94 "calls to action", UNDRIP and the rights of Indigenous peoples. Many have started to embrace Indigenous conceptions of archaeology and are beginning to embrace tenets of Indigenous archaeology and working in collaboration with Indigenous peoples (Warrick 2017: 92)[17]. These topics are explored in more detail below.

Indigenous Conceptions of Heritage Protection

Understanding Indigenous land occupation prior to settler society in Ontario (and Canada) is the first step in resolving relationships between Indigenous peoples and settler society (Borrows 2005:6-21). The relationship between Indigenous peoples in North America and archaeology has long been problematic. It has been influenced by the past histories, politics, and research agendas that have positioned Indigenous peoples on the lowest rung of a unilinear evolutionary scheme (e.g., Morgan 1877), barely eking out an existence. It is little surprise that archaeologists have in the past sometimes been labelled as agents of colonialism; today, many are allies and advocates for Indigenous people. In this section, I examine Indigenous conceptions of archaeology, followed by Indigenous approaches to heritage protection.

Indigenous Conceptions of Heritage

Indigenous peoples have lived in North America for many thousands of years, developing sacred relationships with the land that represent and are essential to their identity and culture (Borrows 2005:3). Every Indigenous nation has its own worldview as expressed through "epistemology, language, ontology; religious belief and practices; and by traditional knowledge systems and empirical observations of the world" (Nicholas et al. 2018: 8). Although most Indigenous worldviews are diverse and complex in nature, all worldviews are conceived through generations of lived experience, strong ties and

[17] In 2017, the Ontario Archaeological Society (OAS) unilaterally amended its constitution to redress the imbalance of stewardship over Indigenous heritage (Racher 2019; OAS 2017a).

relationships to the land passed on through storytelling (Bruchac 2014; Settee 2011:436). Recognizing and understanding the diverse but rich Indigenous worldviews, heritage values and knowledge systems of Indigenous nations is essential in understanding their attitudes toward heritage practices, such as heritage resource management (Nicholas et al. 2018).

The definition of 'heritage" of course may vary between nations, so a general Indigenous understanding of heritage can be difficult. Nicholas (2017: 200) has defined "heritage" as "objects, places, knowledge, customs, practices, plants, stories, songs, designs and relationships, conveyed between generations that define or contribute to a person or group's identity, history, worldviews and wellbeing". This definition, together with a seemingly universal but specific Indigenous ontology or belief system (Nicholas et al. 2018:11-12), such as sacred ties to the land, can have a major implications when it comes to the impact of land-altering activities such as development (or even archaeology). For example, in Ontario, the Haudenosaunee (Six Nations), the Huronne-Wendat and Anishinabek (Missisaguas of the Credit First Nation) all have sacred ties to the land on which their heritage was created and on which they continue to live (Table 5).

Table 5. Ontario Indigenous Nations and their connection to land and heritage.

Nation	Land Connection
Haudenosaunee (Six Nations)	"The land is sacred to us, It defines our identities, belief system, languages and way of life" (Haudenosaunee Development Institute 2010:7).
Huronne-Wendat	"The history of the Huronne-Wendat people is woven into the fields, lakes and mountains of the Great lakes" (Nation Huronne-Wendat 2019).
Anishinabek (MCFN)	"[Our] culture resides in the land and water. It resides in people, stories, songs, memories and traditions. It resides in objects, books, reports and records. Places on the landscape hold cultural knowledge. Culture and heritage reside in, and are expressed by, the interaction of people with the land through their traditional practice" (DOCA: 2018:8).

The traditional practices and beliefs of Indigenous peoples cannot be separated from the lands they have traditionally occupied. The Western worldview that places humans on top of the pyramid generally does not exist for Indigenous peoples who instead view

themselves as having an interdependence with the land that promotes accountability and responsibility (Settee 2011:438). When that relationship to the land is threatened by development, and heritage policies fail to involve Indigenous peoples, their identity and historical continuity is threatened (Nicholas et al. 2018: 12). Priscilla Settee remarks that "this threat is evidenced by rapid disappearance of Indigenous languages, plants and animal species, and degradation of Indigenous homelands, which threatens the very survival of Indigenous people" (2011:437).

Current heritage legislation in Ontario fails to embrace let alone acknowledge Indigenous conceptions of heritage. The *Ontario Heritage Act* primarily protects tangible heritage (i.e., artifacts and archaeological sites) rather than intangible heritage. Efforts to preserve and protect Indigenous conceptions of heritage are underway in archaeology (see Nicholas 2017). In Ontario, this is evidenced by archaeologists working with Indigenous monitors and their nations, forming strong foundations for Indigenous rights (Warrick 2017:93). However, it is difficult to achieve stable and effective universal (tangible and intangible) heritage protection when dealing with outdated and exclusionary practices and policies in Ontario's heritage resource industry.

Indigenous Approaches to Heritage

There have been many criticisms of state control of Indigenous archaeological sites because of recent shifts in archaeology, such as inclusion ethics and Indigenous rights and values (Hollowell and McGill 2014:370; Smith 2004:11). State control has devalued Indigenous heritage and knowledge by excluding Indigenous peoples as stewards of their heritage. A shift to counter these negative elements has encouraged new approaches to archaeological stewardship. The emphasis of these approaches is changing from strictly being management, preservation, and conservation focused, to being more collaborative, inclusive, and respectful to Indigenous relationships to the past (Hollowell and McGill 2014:370; see Colwell 2016; Colwell and Thomas 2008; Nicholas 2008, 2017; Racher 2019; Silliman 2008; Smith 2004, 2006). Below I present two approaches that could be adopted to counter the negative undertones in Ontario's heritage resource management. These are further examined in Chapter 5: Discussion and Conclusions.

Indigenous Archeology

Indigenous archaeology is “archaeology done by, with and for, Indigenous people” and has long challenged colonial archaeology and by extension heritage resource management (Atalay 2006, 2008, Nicholas and Andrews 1997; Smith and Wobst 2005; Watkins 2005, Watkins and Nicholas 2014). It has since expanded in its nature and goals, and today offers a variety of strategies that both address Indigenous needs and challenge Westernized epistemologies. Indigenous archaeology has been defined as:

> an expression of archaeological theory and practice in which the discipline intersects with Indigenous values, knowledge, practices, ethics and sensitivities and through collaborative and community oriented or directed projects, and related critical perspectives. Indigenous archaeology seeks to make archaeology more representative of, relevant for, and responsible to Indigenous communities. It is also about redressing real and perceived inequalities in the practice of archaeology and improving our understanding and interpretation of the archaeological record through the incorporation of new and different perspectives (Nicholas 2008:1660).

Decolonization, a means to redressing the problems of archaeology's colonial underpinning and political economy, is one goal of Indigenous archaeology. There are numerous examples decolonizing archaeological (and HRM) practice through the incorporation of Indigenous values and viewpoints (e.g., Lydon and Rizvi 2010; McDavid 2014; Smith and Wobst 2005). Contemporary archaeology and heritage resource management still often places a barrier between Indigenous peoples and their heritage (Nicholas et al. 2018:2). Indigenous archaeology today remains on the margin of mainstream archaeology because most archaeologists have been unwilling to give up control and decision making, even if they are advocating for Indigenous peoples in archaeology (Nicholas 2008:1668). Atalay advises that to practice Indigenous archaeology, one does not need to be Indigenous; it takes effort, collaboration, and inclusion of Indigenous conceptions of archaeology and its colonial past (2006:294).

Collaboration

Collaboration in the context of heritage resource management has an extensive literature (e.g., Atalay 2012; Atalay et al. 2014; Colwell and Ferguson 2008; Nicholas 2008; Silliman 2008). Colwell (2016) presents a revised "collaboration continuum" where one end includes colonial control and resistance, in the middle participation, and the other end collaboration and Indigenous community control (Colwell 2016: 116-117). The continuum reminds us that collaboration is not one set practice but can take on many

forms. Resistance to need and values of Indigenous communities, unilateral participation, equal benefits collaboration and involvement of all parties, and the full empowerment of Indigenous nations to make their own decisions over their heritage are all practical forms (Colwell 2016: 116). HRM projects can fall into different areas of the continuum (predominantly colonial control and resistance) based on project locations and shifting involvements of the Indigenous nations, archaeologists and proponents. (McDavid 2014:1597). Elsewhere collaboration can be interpreted as "critical multivocality' where "numerous perspectives and values are brought together to enlarge our shared understanding of the past" (Atalay et al. 2014: 11-12).

One good example of such a study was produced by Katherine Dowdall and Otis Parrish, involving the California Department of Transportation and the Kashaya Pomo Tribe in a 1997 excavation. The main goal was to provide the state's processes for conducting archaeology and the Kashaya Pomo tribe's process of maintaining their cultural landscape (Dowdall and Parrish 2002:102). Overall this project exhibited inclusivity, reciprocity, and mutual respect in a collaborative framework where authority was shared (p. 108-110).

Chapter Summary

The imposition of early colonial beliefs and laws following European exploration of North America, and the forced dispossession and marginalization of Indigenous peoples, contributed to the building of Canada and the United States. The colonial legacy strongly influenced the authorized heritage discourse’s socially and politically driven goals, which have continued to distance Indigenous people from the lands, their heritage. In response, Indigenous efforts to regain rights, values and identity has been supported by legal decisions, TRC, UNDRIP, and other developments. In Ontario, archaeologists have begun to respond to these national trends and are increasingly aware of Indigenous heritage concerns. However, Indigenous peoples there (and elsewhere) remain on the periphery when it comes inclusion in heritage practices because of outdated policies. Indigenous and collaborative archaeology approaches offer ways to decolonize Ontario heritage practice.

Chapter 3.

Methodology

Heritage resource management (HRM) in Ontario has had very limited direct involvement with the Indigenous peoples whose heritage dominates the archaeological record there. This chapter describes the methods I employed to obtain perspectives, opinions, and concerns relating to Indigenous nations involvement in HRM in southern Ontario. I conducted a series of ten interviews with representatives from three Indigenous nations, along with a literature review of Ontario heritage legislation.

This chapter begins by describing the methods used for the interviews conducted, through which the perspectives and opinions of Indigenous peoples in southern Ontario were gathered. Here I discuss the reasons for employing primarily semi-structured interviews, and then outline each of the five main elements of the interview process and how it was conducted: 1) demographic considerations; 2) sample population; 3) the interview framework development; 4) the interview procedure (including any deviations from the approach); 5) ethical considerations. I conclude with a description of my data analysis methods.

Interviews

I employed a qualitative data approach, based on semi-structured, open-ended interviews, aided by a list of preconceived themes reflected by key questions. My intent with semi-structured interviews was to create a personal, trusting, and open atmosphere in which the respondents would feel free to share their experiences within and about heritage and heritage management. This approach allows the interviewee to elaborate on each given theme, and to feel more comfortable and less restricted compared to a more formally structured interview (Bernard 2011:158). The value of semi-structured interviews also gives each interviewee flexibility in offering their experiences and perspectives within a guided set of questions, while also producing comparable results (Guthrie 2010:11). Such flexibility allowed me to direct the flow of the questions, and cover all pertinent topics. Moreover, I was able to formulate follow-up questions during the interview, to rework questions to better suit respondent's variable backgrounds, and

to pass over questions already addressed or not applicable to the participant. Semi-structured interviews also allowed for group interviews where I could sit down with multiple informants and discuss each theme through a set of corresponding questions. If the participants could not meet with me in person, they could still follow the themes and related questions and produce valuable feedback for each given theme with the aid of the interview question guide. The interview question guide outlines the themes, each with a set of relevant questions.

Given the semi-structured, open-ended nature of the interviews, some of the conversation inevitably resulted in participants inquiring about my own opinion on the topic. While my intent was to gather only the opinions of the participants, sharing my thoughts helped the interview become less interrogative and in certain instances helped participants to extrapolate on points. Overall, the open flow of conversation between interviewer and interviewee contributed to a sense of mutual trust and added to the richness of the content.

My study sought information on experiences in and attitudes about heritage and heritage management through interviews with Indigenous nations representatives from southern Ontario. For the purpose of this study, “a representative” (key informant) was defined as someone who has worked in archaeological capacity in southern Ontario for a minimum of three years and is a self-identified descendant of one of the three Indigenous nations, whether they see themselves as a federally recognized member (under the *Indian Act*) of a First Nation, or a traditionally recognized member of that nation.

Demographic Considerations

I considered two demographic factors to help identify informants with first-hand involvement with southern Ontario HRM, including degree of involvement with their ancestral heritage. They are: 1) affiliation with one of the identified Indigenous nations; and 2) experience (Table 6).

Table 6. Demographic requirements.

Affiliation to Indigenous Nation	Experience
Participants needed to be affiliated with one of the Indigenous nations: 1. Six Nations Elected Band Council 2. Traditional Haudenosaunee Confederacy Council 3. Anishinabek: Mississaugas of the Credit First Nation; 4. Huronne- Wendat	- work in southern Ontario - Minimum of 3-years' experience in archaeology or associated engagement, including archaeological liaisons and monitors

Indigenous Nation Affiliation. I needed to have Indigenous individuals from southern Ontario providing information about their involvement in HRM and, more generally, about heritage. Agreeing to participate were individuals from Haudenosaunee (Six Nations of the Grand River Eco-Centre (affiliated with Six Nations Elected Band Council), and the Haudenosaunee Development Institute (affiliated with the traditional Haudenosaunee Confederacy Council), the Mississaugas of the Credit First Nation (Anishinabek), and the Huronne-Wendat.

Experience. I sought interviewees who had a minimum of three years' experience in HRM in southern Ontario. My rationale was that it took such time to develop a working knowledge of HRM, gain practical experience with sites and stages of assessment, and achieve an understanding of the basics of provincial heritage legislation.

Sample Population

I identified my sample population in two ways: 1) through knowledge of Indigenous nations I have gained as an archaeologist in Ontario; and 2) through recommendations from archaeology and academic colleagues in the province. Non-probability sampling was used to select informants for my participant group.

I employed a combination of purposive and "snowball sampling" (i.e., chain-referral) sampling (Bernard 2011:143-148). *Purposive sampling* is used when the researcher decides the purpose they want informants to serve (Bernard 2011:145). For this study, I sought Indigenous participants who met the criteria outlined above. My recruitment also employed *snowball sampling*, a means of identifying informants by recommendation.

This strategy is often employed for “hard to find” or “hard to study” populations (see Bernard 2011:146). In this case I made use of “informative study documents” such as the Interview guide, the Letter of Information, and the studies participants Consent Form and (Appendices A-C). I sent “informative study documents” directly to individuals in archaeological management positions of the Indigenous nations (those who manage archaeological field liaisons, monitors, and representatives) in hopes to disseminate the documents and find participants. Studies have shown “that 10-20 knowledgeable people are enough to uncover and understand the core categories in any well-defined cultural domain or study of lived experience” (Bernard 2011:154). I therefore took this as the minimum number of participants to interview.

My time working as an archaeologist in the province had provided the opportunity to work with monitors and field liaisons affiliated with the nations on numerous projects. This afforded me the knowledge of where I could locate individuals who could meet the demographic specifications. All of the study participants had worked or are currently working in Ontario HRM in roles ranging from field representative (archaeological liaisons or monitors) to archaeological supervisory and consultation coordination positions for their nation.

Interview Framework

The semi-structured interview format employed guided the interviewee through a set of predetermined themes with associated questions but let them expand on topics reflected in individual questions. These themes and corresponding sets of questions were guided by the four overarching research questions, presented in Chapter 1. The interview guide utilized in the study is found in Appendix A. I later had to make a few adjustments to the interview framework once all the data was collected. After my analysis, and for purposes of creating better overall structure, clarity and representation, I renamed the themes to appropriately represent the questions. During this process I realized that some questions needed to be moved to more suitable themes; these I renumbered to provide structure and clarity in the Results chapter.[18] One other adjustment was made to interview

[18] My original interview guide (Appendix A) had two questions (Q22 and Q 23) under the theme of “Equitable Practices.” I subsequently incorporated this topic and the data collected into the revised themes of “Stewardship and Decolonization” and “Indigenous Rights and Traditional Knowledge”

questions as two questions were similar or repetitive, pursuing similar feedback. In those instances, I combined the data into the first occurrence of the question. Therefore, my original 27 questions organized into eight themes (Appendix A) were subsequently revised into 25 questions organized into five themes (Table 7).

A total of ten interviews were completed between September 6, 2018, and July 23, 2019. Six were conducted in person at a location approved by the participants. One group (two participant) interview was conducted in person. Another interview had to be conducted by phone due to distance and scheduling issues. Finally, for two interviews, respondents elected to give written responses to the questions via email. Prior to the interviews, all participants had been informed of the goal of my research goals through both verbal communications and documents provided.

In-person interviews ranged from 25 to 130 minutes in length. Each participant was given the interview questions to review before the interview. All in-person and phone interviewees signed consent forms and agreed to interviews being audio recorded. At the start of each interview I reiterated that the participant had the right to not answer a question or to quit the interview at any time with no penalty. I also told them that their identity would remain confidential if requested. Respondents later were given the opportunity to review the transcript of their interviews.

(page 6), specifically into “Stewardship and Decolonization” (Q 22) and “Indigenous Rights and Traditional Knowledge” (Q17).

Table 7. Themes and corresponding interview questions.

Themes	Description of questions	Interview Questions
Demographics	This theme is comprised of questioned related to: — basic demographic questions;	1. Who are you? What group are you affiliated with? How did you become involved in archaeology? How many years of involvement? 2. In what capacity do you work in archaeology? What is your general area of work, geographically? What is your positon in archaeology/cultural resource management today?
Heritage Resource Management	Heritage resource management and the participant's role;	3. What does cultural heritage management mean to you and your community? 4. What is your role in cultural heritage management?
Involvement	I. Engagement in southern Ontario heritage resource management questions designed to allow the respondent to review and comment on how the standards benefit their First Nation and how engagement could be improved or overhauled through new frameworks or ideas II. Consultation (Legal engagement) in Southern Ontario designed to discuss the duty to consult	**Ethical Engagement** 5. What are your initial thoughts on engagement policies initiated by the province of Ontario with regards to the Ministry of Tourism, Culture and Sport's standards and engagement bulletin for archaeological work? 6. Would you say your community benefits from the current heritage policies? 7. What are the challenges or limitations of Ontario engagement practices? 8. How do we move beyond ethical and professional obligations to engage Indigenous communities? Moreover, in your opinion, why are Indigenous communities not engaged from the outset for certain projects? 9. Are there specific problems with certain stages of archaeological assessments? If so how can they be addressed? 10. How can archaeologist be better at involving or informing Indigenous communities about archaeological work (Stages 1-4)? 11. How can engagement become more meaningful? 12. Is there a better way to go about engagement altogether? 13. Does the community have archaeological engagement policies? What kind of policies does your community have? Are these policies recognized by archaeologists and the province? **Consultation** 14. What are your experiences with the Duty to Consult in southern Ontario? How well does the Crown uphold its duty? Do third parties still accommodate when they are not legally bound to consult and accommodate?

Themes	Description of questions	Interview Questions
		15. Section 35 of the Constitution Act, 1982 recognizes and affirms existing Aboriginal and treaty rights of Indigenous peoples in Canada, and the Government holds a fiduciary responsibility to Indigenous people all over Canada. Do you feel the government has upheld their responsibility to accommodate the rights and concerns about your heritage? 16. What is more effective, the Duty to Consult by the Crown or engagement with archaeologists?
Indigenous Rights and Traditional Knowledge	Aboriginal rights, and treaty rights, including the government's fiduciary responsibility to Indigenous peoples; New efforts to promote Indigenous rights (e.g., UNDRIP); and Indigenous knowledge incorporation in Ontario archaeology paired with how Indigenous voices and traditions could be introduced to better represent local heritage values	17. How can the government and its archaeologists begin to incorporate documents such as the United Nations Declaration on the Rights of Indigenous people (UNDRIP) into cultural heritage management? (Referring to specific articles such as Article 11 and 31 of UNDRIP). 18. Indigenous knowledge is not widely used in archaeology. How can Indigenous knowledge be incorporated into archaeology in southern Ontario? 19. How can the voices of Indigenous peoples and their traditions begin to educate archaeologists and the public about the past?
Stewardship and Decolonization	Stewardship of archaeological sites including Indigenous peoples' thoughts on a predominantly Western literature in the field of heritage resource management; Indigenous rights, Supreme Court of Canada cases and UNDRIP and finally, decolonizing archaeology in Ontario.	20. Does provincial control over your ancestral heritage sites prevent you from learning about your heritage? Does the current legislation limit the development of your culture? 21. Why haven't Indigenous communities been able to have more control over ancestral heritage? What do you feel Indigenous people can gain by having more control over ancestral sites? 22. Should archaeologists be the primary stewards of heritage? How can heritage control become more equitable? 23. What are your feelings on Indigenous history being written by mostly non-Indigenous people due to colonial frameworks? 24. Do you feel that recent affirmation of Indigenous rights, such as in recent Supreme Court of Canada cases (SCC) and UNDRIP, will help to decolonize archaeology? 25. Do you believe it is possible to decolonize archaeology in Ontario?

Ethics and Confidentiality

The interview portion of this project required two ethics reviews and four "study approvals." Ethics review were required by the Simon Fraser University's Office of Research Ethics, with approval received March 12, 2018. The second ethics review was required by the Six Nations of the Grand River Elected Council to conduct research; approval was granted by the Six Nations Council of Ethics Committee on June 28, 2019. Study approvals were also required by the three First Nations and the Haudenosaunee Development institute (HDI), which represents the Haudenosaunee Confederacy Council. I sought approval for two reasons. The first was to see whether the study would be a point of interest for their Nation; the second to ensure no conflict with participants who affiliated with those Nations. I received approval for the study from a Huronne-Wendat on March 27, 2018, MCFN on June 18, 2018, HDI on October 2, 2018, and Six Nations of the Grand River Elected Council on June 28, 2019.

Once I was ready to begin the interviews, a letter outlining the purpose of my thesis research was electronically sent to potential participants or their work managers to gauge their interest and to provide further information on the study. Consent forms were either given directly to the participants or sent electronically, depending on whether the interview was to be conducted in person, by phone, or via written responses.

Participants in the study were given the option of confidentially. As per SFU's Statement of Confidentiality: "Upon your request, your identity can remain confidential. If you wish to remain confidential, I will maintain the confidentiality of your identity and all contributions made to the study. However, it must be noted that, if interviews are conducted over phone or Skype, because of their unsecure nature, confidentiality cannot be guaranteed." Two options were provided: 1) Yes, I would like my identity and contributions to remain confidential; or 2) No, I consent to my identity being used in the study.

Following the Canadian Tri-Council Policy Statement on ethical research (Government of Canada 2018:60), *names or place of work* are used in this thesis only for those who consented to have their identity revealed*, and coded information* for those who requested anonymity (e.g., Anonymous 1; Anonymous 2). Seven participants consented to their identity being used in the study; three requested confidentiality. For the latter, I

was still able to gather aggregate data through thematic analysis and idiosyncratic remarks but without directly identifying information in order to preserve anonymity.

Data Analysis Methods

Grounded theory was the foundation of my research design and data analysis. It is an interpretive approach that uses "inductive data, relies on comparative analysis, involves simultaneous data collection and analysis, and includes strategies for refining the emerging in analytic categories" (Charmaz 2017:299). This approach incorporates a relativist orientation that takes into account "researchers and research participant's language, meanings and actions" (Charmaz 2017:299).[19] Constructivist grounded theory allowed me to produce a set of primary research questions that could capture their multiple attitudes and experiences of participants and how they have been influenced in the context heritage resource management in Ontario (Mill et al. 2016:26). Furthermore, the primary research questions and the resulting interview framework enabled a collaboration with participants who provided their opinions on each given theme in the framework, but also recognized their unique comments and experiences (Mills et al 2006:31).

Analysis of Results

To analyze interview results, I opted for thematic analysis utilizing NVivo, the qualitative data analysis software program. This program was used to transcribe, code and compartmentalize the interviews responses, thematically tagging each interview response into nodes[20] based on the question asked. Once the analysis was complete, the original themes from my interview guide (Appendix A) were revised as previously noted.

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[19] According to Chamaz (2016: 299), constructivist grounded theory differs from grounded theory by "(1) assuming a relativist epistemology, (2) acknowledging yourself and your research participants, multiple standpoints, roles, and realities, (3) adopting a reflexive stance toward your background, values, actions, situations, relationships with research participants, and representations of them, and (4) situating your research in the historical, social, and situational conditions of its production."

[20] Nodes are defined as "a container for references about a theme, topic, opinion or issue."

NVivo helped me analyze the interview data thoroughly and then grouping my interview responses into nodes based on my primary questions. My goal was to identify reoccurring themes and structures in the respondents' question responses. I used NVivo to organize and create nodes; I could code question responses then compartmentalize all responses into one specific node. This process made it easier to identify any reoccurring themes, as well as the similarities and differences between the respondents' responses because they all appeared in the same node. Further analysis of the question responses was aided by NVivos, word frequency, and text search queries. The results of the analysis are presented in Chapter 4.

I sought to analyze the data at two levels: thematic and idiosyncratic. T*hematic analysis* takes place through coding data of each interview question and is a way to generalize the data (i.e., as "nodes" in NVivo) (Nowell et al. 2017:2). I used this approach to compartmentalize my responses into the nodes I had established. For example, Question 4 asked participants "What is your role in cultural heritage management?" I used NVivo to code all responses given by participants and compartmentalized them into a single node. Once every response was analyzed, I could generalize the data by comparing similar or thematic responses and likewise contrast unique responses. Once generalization was completed I looked at how the responses correlated to my primary research questions.

Idiosyncratic analysis was utilized for anecdotal or other information presented in the interviews. This is aimed at preserving individual ideas and issue that are not recurrent enough to be thematic, but warrant representation. The interviews I conducted included participants' anecdotal or unique insights, which were captured through direct quotes. Idiosyncratic analysis was completed by taking information which fell outside my generalization of the overall responses. In other words, information that contrasted the overall similarity or was unique in the participant's response to each question was deemed Idiosyncratic. I include select anecdotes and unique information in my concluding chapter.

Chapter Summary

In this chapter, I have described the methodology for research with Indigenous nations in southern Ontario cultural heritage management. I explained the need for and nature of a

semi-structured interview. My intent was to create a personal and comfortable atmosphere when discussing the questions presented to participants. The interviews were structured through an interview guide that helps “semi-structure” the interview by presenting participants with themes and questions but letting them expand on any given topic. I then reviewed the demographic selection process for the study and how I went about sampling the demographic. All ten participants were recruited because of their involvement in archaeology with their affiliated nations in southern Ontario.

The interview framework was guided by five overarching research questions (presented in Chapter 1), each reflecting five themes with associated sets of questions for participants. Before participants could take part in the study, ethical review and consent was obtained from both SFU Research Ethics and all associated Indigenous nations and the participants.

Nvivo, the qualitative data analysis software program, was used to code and organize my data. This enabled efficient comparison of respondent data. Interview responses were tagged according to themes and then analyzed.

Chapter 4.

Results

This chapter presents the results of the interviews I conducted and offers an analysis of the information relative to theme and interview questions. Information gleaned from the ten interviews pertinent to my research questions is organized by the five themes introduced in the previous chapter: 1) Demographics; 2) Heritage Resource Management; 3) Type of Involvement; 4) Indigenous Rights and Traditional Knowledge; and 5) Stewardship and Decolonization. Quotations drawn from the responses provide detailed information and insights for each of the themes discussed.

Interview responses are quantified in terms of the number of participants who agreed/ disagreed (e.g., “5/10”) to certain interview question. This was done where possible but was difficult because of the open-ended semi- structure interviews had variable responses. In cases where participants’ responses were idiosyncratic, the use of quotations to add to the authenticity of the results and individual thoughts.

The interviews yielded 74 transcript pages based on transcription of the interviews. Only a representative selection of the rich information participants generously shared is included here. The study and all associated documents, including full interview transcripts, will be submitted with this thesis to the Simon Fraser University Library. Transcript copies or any other documents manufactured from participant intellectual knowledge will be provided to them upon request.

Theme 1. Demographics

Of the 25 invitations sent, there were in the end only ten participants (Table 8). Here I present the participant demographics from Questions 1 and 2. Table 9 identifies each of the participants, their affiliation, position in archaeology and the date of the interview. The set of questions asked regarding this theme were used to show the participant’s positions for the Indigenous nations they represented in the study. The demographic data reveal both similarities and differences between the participants.

Although the interview group was smaller than I would have liked, I am satisfied that it does represent the nations they are affiliated with. Each interviewee had a working knowledge of the *Standards and Guidelines for Consultant Archaeologists* and the required minimum three-year experience.

Table 8. Interview respondent recruitment.

Invited	25
Interviewed	10
No response to invitation	11
Invitation declined	2
Invitation accepted but unable to schedule interview	2

Table 9. List of participants.

Participant	Interview Date	Position and affiliation
Jordan Jamieson	September 6, 2018	Field Liaison for Mississaugas of the Credit First Nation
Louis Lesage	September 14, 2018	Director of Territorial Office Huronne-Wendat
Jubal Jamieson	October 2, 2019	Archaeological Monitor for the Haudenosaunee Development Institute representing the Haudenosaunee Confederacy Council
Sharann Martin	November 18, 2018	Archaeological Monitor for the Haudenosaunee Development Institute representing the Haudenosaunee Confederacy Council
Joanne Thomas	July 23, 2019	Consultation supervisor for Lands and Resources for Six Nations Elected Council
Mark LaForme	January 7, 2019	Director of the Department of Consultation and Accommodation (DOCA), for the Mississaugas of the Credit First Nation
Wayne Hill	July 24, 2019	Archaeology Supervisor for the Haudenosaunee Development Institute representing the Haudenosaunee Confederacy Council
Anonymous 1	September 15, 2018	
Anonymous 2	November 18, 2018	
Anonymous 3	July 23, 2019	

Theme 2. Heritage Resource Management

The two questions for this theme explore what "cultural heritage management" meant to both the participants and their nation, as well as what their role was cultural heritage management.

Question 3. What does "cultural heritage management" mean to you and your community?

All participants gave insights to heritage resource management. All but one (9/10) referenced cultural heritage as a connection to their ancestors and their responsibility to take care of their ancestors. The term "cultural heritage management" was not appreciated by all participants. Wayne Hill (Haudenosaunee Development Institute [HDI]) noted that cultural heritage management is not a "meaningful construct" and not applicable to his community:

> Unfortunately, the settler colonizer has defined the terms, guidelines and policies according to a Western point making it advantageous for archaeologist, land developer and government. It's an unbalanced and not reflective of a Haudenosaunee construct and or perspective to provide real opportunity to develop and cultivate sustainable change as we see fit on behalf of our ancestors heritage. As it stands we're operating from a mitigating position, only adding suggestive measures and basic dialogue for preservation and excavation management.

Two participants defined cultural heritage management as an authoritarian perspective. Mark LaForme (Mississauga of the Credit First Nation [MCFN]) referred to it "as having the jurisdiction to determine and implement approaches that are appropriate to the MCFN for heritage management." Sharann Martin (Haudenosaunee Development Institute) offered a similar comment: "I think it means taking stewardship back over our land, territory and cultural material so we can basically assert our sovereignty and agency and help have a positive impact on development in the area."

Three participants noted that the means to manage their ancestor's heritage had not been afforded to them and that they must continue to fight for involvement and decision making in the management of cultural heritage in their ancestral territories. Louis Lesage (Hurrone-Wendat) noted that the relationship with their ancestors is reactive rather than proactive in the face of development:

Cultural heritage management, for me we are not doing the management. We are more responding to development, to consultations, to protect our heritage and we are involved in this because it's probably one of the most significant files we have to work on. Yes, we have the villages, campsites, we have various archaeological files, but we also have ancestors, we have to take care of our ancestors. Many of them are unfortunately not in the ground, there are thousands of ancestors that are in universities, they are in the basement of government agencies, and they are in the garages of professional archaeologists. These are very sensitive issues we have to deal with, and I cannot just say it's important, it's fundamental for us to take care of those ancestors, and bringing them back to the ground, to rebury them.

Three participants commented on past exhumation of ancestral burials. Seven described how cultural heritage management today is a means of protecting their ancestors from the harms of development. Jubal Jamieson (HDI) expanded on this by stating:

Cultural heritage management to me it's about pride and dignity. A long time ago we used to know where everything was, we knew where the sites were, we knew where the of villages were, we knew where all the old trails were that went to these villages, we knew where the old ossuaries and burial ground were, they were marked and people respected them and gave them a wide berth unless they had business to conduct there. During the die-off from the disease and wars, we lost anywhere from 85-95% of the population, most of the elders passed, most of the young passed. The survivors, the ten percent or so in the middle, were just trying to survive, we lost all that information, and we lost a lot of our history. Our elders are our banks of wisdom, they were our knowledge carriers, so we lost a lot of that. There physically was not enough of us to maintain our trails our paths and keep these markers healthy, the stone markers or the tree markers for these burials ground and old villages, we lost all that information. What I do now is I am rediscovering those locations, the artifacts themselves are important. It builds pride and dignity and self-respect in the Haudenosaunee people. When you are able to see and feel those artifacts, it has a physical connection, a physical link to our ancestors, and as far as the locations go, they are possibly more important than the artifacts, the ossuaries and burial grounds are even more so, they are supposed to be guarded and respected.

Question 4. What is your role in cultural heritage management?

For the most part, participants spoke of their roles as caretakers of their ancestors and the heritage they left behind rather than their roles through employment. Ultimately, heritage resource management is viewed as something that is preventing Indigenous peoples from being the primary caretakers for their ancestors and their heritage. Nine out of ten participants responded to this question. All who responded noted caretaking of their ancestors as their primary role in cultural heritage management.

Theme 3. Type of Involvement

Of utmost importance in this study was to learn from participants about their desired and actual involvement in heritage management. In Ontario, this primarily take places through two avenues: 1) engagement triggered by obligations of the archaeologist's license; and 2) consultation as required by law. Below I summarize the results of the 16 questions pertaining to these topics. "Engagement" is the term used by the Ontario government in its guidelines to archaeologists working with Indigenous peoples.

Ethical Engagement in Southern Ontario Heritage Resource Management

In Ontario, expectations for engagement are defined by both the *Standards and Guidelines for Consultant Archaeologists* and Draft *Technical Bulletin on Engaging Aboriginal Communities in Archaeology* (see Chapter 3). An Ontario-licensed archaeologist must adhere to the minimum standards for archaeological practice and engagement with Aboriginal communities. Here I examine responses to Questions 5 through 13, which pertain to engagement in southern Ontario heritage management.

The interview question set for this particular section was large and included questions pertaining to Ontario's provincial engagement, mandated by the Ministry of Heritage Sport, Tourism and Culture Industries (MHSTCI) on archaeologists. The questions considered: initial thoughts; benefits; challenges and limitations; betterment of engagement; meaningful engagement; and Indigenous nations archaeological engagement policies.

Question 5. What are your initial thoughts on engagement policies initiated by the province of Ontario with regards to the Ministry of Tourism, Culture and Sport's standards and engagement bulletin for archaeological work?

All ten participants concluded that engagement practices are inadequate due to one or more of the following factors: a) limited opportunities for Involvement in Ontario's archaeological stages; b) paternalist attitudes; c) ambiguity of the engagement bulletin; d) discretionary minimal standards of practice and engagement for archaeologist; and e) the business-oriented practice of archaeology. The limited involvement of Indigenous

nations stemmed from the inadequate engagement requirements for (only required in some cases on Stages 3 and 4 of the *Standards and Guidelines for Consultant Archaeologists*, and also to lack of recognition of the Haudenosaunee Confederacy Council in all archaeological matters (see Challenges and Limitations below).

Mark LaForme (MCFN) stated the engagement policies are inadequate because they are limited and very weak, ambiguous and discretionary. Sharann Martin (HDI) mentioned discretionary engagement policies and paternalism within the archaeological community:

> I feel like in a lot of areas it's still lacking, there is still a lot of paternalism within the community. There is really no consequences for people or companies who don't follow the standard and guidelines. There are still shady companies out there that do shady work, it's gotten better, but I think there is still a lot more room for improvement. In terms of how we engage and how things happen on site, a lot of time standards and guidelines don't really account for a lot of things that happen on site, or specific problems that arise. It's often left up to the archaeologist discretion, professional judgment.

Relating to Mark LaForme's sentiments about ambiguity in engagement policies and Sharann Martin's comment on bias in professional judgement on engagement concerning Indigenous heritage, Jordan Jamieson (MCFN) stated that "the biggest problem that I have with it is how people perceive it. It means something different to everybody."

Wayne Hill (HDI) and Joanne Thomas (Six Nations Elected Council) each described the lack of involvement in the development of the province's standards and guidelines. Wayne was the first archaeological monitor in Ontario for the Haudenosaunee, monitoring the Red Hill Creek Expressway project, while Joanne became a monitor two years later. Both were initially exposed to archaeological research with Gary Warrick in southern Ontario They each noted that their nation was not given the opportunity for involvement in the creation of the standards and guidelines. Wayne Hill recalled that he was "unofficially involved in a series of pre-meetings with the MHSTCI on the discussion of these technical bulletins" and that he "vehemently objected and disapproved as there had not been any engagement with my community or others."

Joanne Thomas had similar remarks about the standards and guidelines implementation. She recounted a meeting she attended with her archaeological work

colleague in Rama, Ontario, which was organized by the Minister of Tourism, Culture and Sport:

> The Minister of Tourism, Culture and Sport was making an entrance there that day. There must've been about thirty native people there. Some ministry people were sitting in there that was about it actually. But it was packed in there, like sardines. He came in and everything, and he got up there, and he did talk, and he shook all the native 'people's hands, then he left. The real reason that we were there was they were just coming to tell us that they had just changed the standards and guidelines from what it was to the 2011 standards and guidelines. Everybody was so shocked all the natives in that room were so shocked because nobody was consulted about this before it happened. I mean they never got any of their thoughts on it. No one did. So what the Ministry of Tourism, Culture and Sport had done is they took these new standards and guidelines, they took it to four First Nation communities up north. Small communities and said 'we're consulting here, can you read these over, do you have any comments — the four small first Nations communities up north where not very much development happens.

Five participants mentioned that the standards and guidelines for consultant archaeologists and its engagement bulletin are a good first step and have improved enforcement since their production. However, these same participants noted that there is always room for improvement. As Wayne Hill stated, “it is a better version than the previous but a long ways to go to capture our Haudenosaunee sentiments and values.”

One participant cited the business-oriented side of heritage resource management, explaining:

> A lot of companies, it’s been an ongoing issue, companies try not to engage with monitors or other native companies because of the business. I don’t think people understand where the Indigenous monitoring groups come from half the time, because they think it’s a hassle to have them there when our beliefs and our understanding to it is different than theirs. So they would rather avoid that then engage (Anonymous 2).

Question 6. Would you say your community benefits from the current heritage policies?

This question sought to identify how the current heritage policies benefited the participant’s nation. By heritage policies I was referring specifically to the *Ontario Heritage Act* and the requirements it places on the archaeologist’s license to ethically engage through the 2011 *Standards and Guidelines for Consultant Archaeologists* and *Draft Technical Bulletin on Engaging Aboriginal Communities*.

Half of the participants (5/10) indicated that the current standards and engagement policies are somewhat beneficial. Jordan Jamieson (MCFN) stated that “from 10 years ago, it's considerably better, I mean there’s always room for growth… it’s all about how you view it, it’s not where I’d like t to be but is definitely a start.” Three participants echoed a similar sentiment, noting that they have the benefit of the current requirements to engage and are able to employ their community members in archaeological work. Sharann Martin (HDI) explained that “the fact that there is legislation that mandates engagement is a big step compared to the days when you didn’t have to.” Speaking for the Huronne-Wendat, who have traditional lands in southern Ontario (although their office is now in Quebec), Louis Lesage stated:

> The benefit that we see, hopefully, is that we are engaged in stages three and four. All the promoters and those that are making archaeology have to involve us. That is a benefit for us; today we have a team of about ten Huronne-Wendat representative that go on archaeology sites in Ontario and Quebec. It’s more than positive; these people are, you know it’s something when you work with your heritage, on a site that was used by your ancestors, used by your Nation, you are helping to understand the life and time of your ancestors better. I don’t know how to say that in English but it’s good for your spirit, it’s good for your heart, it’s good for your soul, all the people that started to do this are still doing it, it’s very good for us. It’s a very special feeling, a deep feeling.

Question 7. What are the challenges or limitations of Ontario engagement practices?

Based on the responses, it was clear that Ontario engagement practices had major challenges and limitations on practices in southern Ontario. All ten participants indicated that there are challenges or limitations to Indigenous engagement in Ontario archaeology. For them, the main challenge and limitation was being engaged in all stages of the archaeological assessment process, particularly Stages 1 and 2. As related by Sharann Martin (HDI),

> I was re-reading the bulletin; it said engagement practices should start at the earliest time. I know for a lot of companies that’s not feasible in terms of, you know, time restrictions or monetary reasons, or whatever. I think that one of the challenges is that fact that we are not required to be consulted in all levels of assessment, that’s one of the ones that I find to be one of the most glaring. Especially stage twos, actually finding the sites, field walking or test pitting, a lot of the times that’s how these sites are found. There are some instances where certain companies don’t do their due diligence, or they are field walking in terrible conditions, working with potential sites with our cultural material, in our land, and not being the most respectful.

All participants mentioned that there is a clear limitation when it comes to engaging at every stage of an archaeological assessment. Louis Lesage (Huronne-Wendat) shared this:

> We would really love to be involved in all the stages, one, two, three and four… For example, if we know that there is a potential in one area for a Huronne-Wendat village, we would like to be involved at the very beginning, sometimes we are involved when a promoter already has the permits, so, unfortunately, it's not too late but it's very late, these are the kind of things we would like to see changed. This way of seeing the future of archaeology with First Nations has not been developed yet. We have lost many dozens of villages and what did we get from this loss? It's our heritage that we lost, this heritage is now in museums, basements of government's agencies, and universities. We don't have access to this, and in fact, we have nothing.

Another added:

> The good companies will meet with the developer and contractor and whoever and say 'Yeah, I think you need to contact so and so because this is where engagement needs to start". Even though you know way ahead of time, Stage 1 and Stage 2, like really even though it's not stated in the standard and guidelines that's where that true engagement was supposed to happen, at Stage 1 and Stage 2. But because it's written as an example of engagement at Stage 3 or 4, which is the way it was explained to me from somebody at MHSTCI. That's what it stated and that what everybody follows (Anonymous 3)

Two participants noted that the standards and associated engagement bulletin, are not enforced "The challenge is that MHSTCI does not enforce its standards and guidelines. They also don't enforce the fact that engagement should be happening which creates limitations on how we proceed to do our jobs" (Anonymous 3). Mark LaForme (MCFN) added:

> There is no "requirement" to engage First Nations at any stage of archaeology, it is at the discretion of the archaeologist as a "suggested best practice". It should be a requirement of the proponent to involve and engage First Nations at all stages of archaeology, which must be verifiable, before a project can proceed

Two participants commented on the limitations on engagement created by the for-profit archaeology industry. Wayne Hill stated that "economics and moral values of the individual archaeology companies and being influenced by unscrupulous land developers contribute to our engagement issues within Ontario's current framework." Another participant noted that "I think some people would see us as a detriment to be out there. They think we're trying to slow them down or stop them from doing what they need to do" (Anonymous 1).

One participant also noted there is an issue being recognized by the government as a designated Aboriginal group, which translates into recognition problems with archaeologists in southern Ontario. This was highlighted by Jubal Jamieson who is employed by the Haudenosaunee Development Institute, part of the Haudenosaunee Traditional Confederacy Council. The Confederacy was disbanded by the Canadian government in 1924 (see Chapter 2), which still does not acknowledge it. Mr. Jamieson indicated that “the main challenge for us is recognition, it goes way beyond archaeology” and he states “there may be engagement in Canadian designated Aboriginal groups like the band councils, the sanctioned Canadian band councils are somewhat engaged in the standards and guidelines but as far as being a Haudenosaunee person, we are totally left out.”

Question 8. How do we move beyond ethical and professional obligations to engage Indigenous communities? Moreover, in your opinion, why are Indigenous communities not engaged from the outset for certain projects?

This question explored what’s causing these challenges and limitations. All participants felt that their engagement with their ancestral heritage hinged on one or more of the following factors: a) economics including resources and time (6/10 participants); b) colonialist thinking, including legislating heritage (3/10 participants); and c) lack of communication between client and archaeologist (3/10).

More the half felt that Ontario’s for-profit industry has had a major impact on their engagement in archaeology. One participant noted, “I think it has to do with money; I think it is a money issue for the companies” (Anonymous 2). Others felt it was a colonial thinking and all-encompassing factors. For example, Jubal Jamieson speculated:

> I think what it is, one or two generations ago, Indigenous communities were viewed as maybe a little uneducated, superstitious, old fashioned, and emotional, whereas the archaeology community seems like they try and maintain a professional level, a professional air. There is no emotions, kind of like a doctor for instances, where you cannot really have emotions, where you have to stay on point and can't waver, previously to have natives involved would have been considered inappropriate in the past because the natives have a tendency to make decisions on emotions rather than science or whatever.

His co-worker Sharann Martin similarly noted:

> This idea that they don't need to consult with us. That it's their right to do whatever they want within their job, they are the archaeologist, they are the ones doing the study, and there still is that idea that we don't need to be included in it. At the core of it, there is still the idea that we don't need to be included I think it comes down to that, and also there are timelines and financial obligations attached to it.

Louis Lesage (Huronne-Wendat) also offered related sentiments:

> I think it's just because First Nations have been forgotten in all the social aspects of our lives for centuries. We are not very involved in education policies, health policies, environmental policies, the only act that I know that you have to consider Aboriginal knowledge is the Species at Risk Act, and this Act was voted on in 2003, I believe.

Question 9. Are there specific problems with certain stages of archaeological assessments? If so how can they be addressed?

The above question was meant to assess engagement policies and archaeology practice standards, moreover whether the engagement problems or issue with practice standards occurred in specific stages or if problems occurred in all stages. Most participants (7/10) were concerned that they were not being involved in all stages (1–4) of archaeological fieldwork or in other words from the start of project planning. One went further and pointed out that engagement in Stage 2 the importance of engagement at Stage 2. Two participants expressed their opinion on archaeological practice deficiencies, specifically at Stage 2, 3 and 4, which are presented in Chapter 5.

Question 10. How can archaeologists be better at involving or informing Indigenous communities about archaeological work (Stages 1-4)?

Two participants commented that archaeologists could better involve their communities in all stages of archaeological field work. Louis Lesage (Huronne- Wendat) stated that the practice of "informing archaeologists" on Indigenous cultural heritage must start in education and training new archaeologists:

> I think that it starts at the university when you are forming students, when you are preparing the next generation of archaeologists. I don't think that the old archaeologist, it will do a big effort to change their mentality. We have to work on the new coming generation of archaeologists, to teach them how to work with First Nations, how to be sensitive to the archaeological heritage of these First Nations, how to think about the way of doing things. For example, policies, to better involve

and to have agreements with First Nations to do archaeology on their sites. That's probably a constructive way of seeing things. Also, starting collaborative research projects with First Nations is a better way of doing archaeology in the future.

Sharann Martin suggested that "a new engagement process is probably the start" to better Indigenous involvement. She added "Making sure that dialogue is always there through all stages to the very end of the report writing, asking for input." Mark LaForme stated that:

> Indigenous communities should not be involved, only First Nations should be involved. An Indigenous community in Toronto should not be engaged as this has the potential usurp the authority of the First Nation whose rights are at risk of being affected. Archaeologists should begin involvement of First Nations, which have the capacity, at Stage 1 of the archaeology process. Beyond this, archaeologists could involve First Nations in the development of the archaeological strategy at each stage.

Question 11. How can engagement become more meaningful?

All participants had opinions as to how to make engagement more meaningful, with much agreement in their responses. They all indicated that being involved from the beginning of a project would make the entire process more meaningful. Mark LaForme stated that "Engagement can become more meaningful by engaging First Nations at the earliest stage of the process and by having full participation of that/those communities in the planning of the archaeological strategy."

Two participants also noted that recognition is the very first step and would help with involvement in archaeology. Jubal Jamieson explained that "the singular most important thing that would help us the most, the thing that would be tremendously useful and tremendously effective would be the single fact, for Canada to stop denying our existence, think about that for a second, that's all it would take, for Canada to stop denying our existence."

Question 12. Is there a better way to go about engagement altogether?

Participants' responses were variable and responses relating to ethical engagement included the need to: remove barriers to access and information produced by current engagement limitations (1/10); bring equality to heritage management (2/10); be consistently and fully involved (1/10); and —the most popular— implement collaborate

frameworks (3/10). Three participants mentioned collaboration between archaeologist and the First Nation in matters concerning the latter's heritage.

Mark LaForme remarked "Yes, by making it a requirement that First Nation, or First Nations where appropriate, and the archaeologist collaborate on the archaeological strategy on a case-by-case basis". Louis Lesage expressed similar sentiments, however he goes into more detail:

> To do archaeology as a collaborative process with the First Nation, for example, to ask the First Nations to get a better interpretation of the artifacts, the history of the site, the history of the regions, to connect new discoveries with old discoveries to have the other opinions and to even orient the hypothesis of research, to do teamwork with the First Nations, to do archaeology that will answer questions that the First Nations have. The archaeologist is paid to dig, clean the site, take all the artifacts, bring them back somewhere, analyze them and make a report about their findings. There is no interpretation of the site, there's no conceptualization or comparative analysis between sites in the area at this period of time, there is no input from the first Nation related to this site, it's just an analytic process, like a plumber, you now you fix something, you make your report, you get paid, and you go elsewhere. There is no input from anybody else. That is what has to be changed in the future. Archaeology is very important, it is a significant job to do, you are working on sacred areas, sacred sites. It's the heritage of First Nations, this First Nation has something to say, something to learn and something to be added. In the future hopefully, this involvement of First Nations in archaeology should be significant as well, more people and obligated.

Wayne Hill also presented a solution for the betterment of engagement altogether. What is needed, he said is:

> A nation to nation engagement process with the MHSTCI and formally adopt it as UNDRIP [in the same sense] citing and acknowledging during Stage 1 background studies all applicable treaty's such as the 1701 Nanfan Treaty [be included] .The Haudenosaunee have many pre-confederation treaties with the Crown and other Indigenous nations before the settler invasion. The province by way of the Indian Act is only focused on more recent part of history beneficial to the settler's not the past 500 years. Simply open it up the archaeological involvement across the board stop this limiting and oppression as 90 percent of archaeology pertains to directly to Indigenous peoples' heritage until then it is only a minimal participation.

Finally, Joanne Thomas had problems with the word "engagement" in Ontario, indicating that archaeologists have ethical obligations to engage with those First Nations who may be affected by their project:

> I think that the word "engagement" needs to be changed. I would say" involvement" would be a better word. Aboriginal or native involvement, you have to contact them because they must be involved because it's their people their ancestor's ways. So

you can say involved, the wording itself I think needs to be changed in the standards and guidelines.

Question 13. Does the community have archaeological engagement policies? What kind of policies does your community have? Are these policies recognized by archaeologists and the province?

In the interviews I also inquired about First Nation archaeological engagement policies. This question was formulated to see what, if any, engagement policies Indigenous nations had and if they are recognized by the province and HRM archaeologists. Almost all participants (9/10) said they had some form of archaeological engagement protocol. However, two of the nations represented, the Mississaugas and Haudenosaunee, are now looking at implementing these standards for their traditional territories. The other two nations, the Huronne-Wendat and the Six Nations Elected Band Council, have had limited time to discuss and develop their desired archaeological engagement protocols openly, resulting in a cultural heritage response process that is more reactive at the moment when compared to the aforementioned two nations.

Mark LaForme spoke of the recently released MCFN guidelines:

> MCFN "Standards and Guidelines for Archaeology" (S&Gs), the MCFN "Consultation Protocol" and the "MCFN/Canada Consultation Protocol Agreement," all of which have been approved by the Chief and Council of the MCFN, delineate the expectations of the MCFN regarding engagement. The paramount expectation of the MCFN is engagement as early as practicable in the process. While the S&Gs are not officially approved or recognized by the government of Ontario, it is my estimation that most Ontario archaeologists adhere to the MCFN S&G's when working in the MCFN Treaty Territory.

Sharann Martin, who works for Haudenosaunee Development Institute (HDI), said that "We do have our own development protocols and policies that we operate under. It's kind of under a larger development protocol within the area, part of that is the archaeological monitoring program which I am a part of." Wayne Hill, another employee of HDI, added "we're in the midst of discussing and possibly drafting our own archaeology principles for 1701 Nanfan Treaty lands for this 2020 year. I'm sure this will be challenging but I believe OAS will assist us in making them province wide."

Six Nations Elected Council member Joanne Thomas, who is very influential within her department, stated that "We need more people for us to be able to write policies. Sometimes when I get asked this question about policies and things like that I tend to

go, you now we are an oral people we don't tend to write things down." In this sense, the engagement policies are in place. However, it's a situation where Six Nations Elected Council representatives prefer meeting archaeologists' in-person to talk about engagement policies because it is more appealing and culturally appropriate to the way they would like to communicate.

The Huronne-Wendat are beginning the process of being engaged in southern Ontario heritage management, as Louis Lesage explained:

> Actually no, we don't have the time to think about that, we are more on the action than in the thinking, giving us a framework on how we should do things because every archaeological site and every collection or discovery are usually different. So it is always a case by case analysis that we have to work on, that's why we don't have a big policy with a big group, we have band council resolution that says mostly two things. We will protect and avoid any archaeological sites in the future if there is work that has to be done, let's say a promoter has a project that wants to dig in a Huronne-Wendat site, we will analyze this case by case. The other thing that the band council resolution says is there will be no more ossuary excavation, that's finished, whatever the project, if it's a pipeline, highway, any building, the ossuaries, the place where our ancestors are in the ground will never be taken anymore, absolute protection.

Consultation

Question 14. What are your experiences with the Duty to Consult in southern Ontario? How well does the Crown uphold its duty? Do third parties still accommodate when they are not legally bound to consult and accommodate?

Four participants had experiences (4/10) with the Duty to Consult process in Ontario. Mark LaForme (MCFN) stated:

> My experiences with the Duty to Consult in southern Ontario are extremely poor resulting in much frustration. The government of Ontario has an abysmal track record regarding the Duty to Consult, while federal consultation is only marginally better. The provincial Crown is severely negligent in its obligations. The federal Crown is more diligent in its duty but I suspect this is due to the bilateral "Consultation Protocol Agreement" between the MCFN and Canada. It is my experience that, for the most part, "third parties" or proponents will accommodate the First Nation at a minimal level and then only based on negotiations between the proponent and the First Nation.

Joanne Thomas (Six Nations Elected Council), speaking of her own experience, explained that consultation and accommodation is slow process built on recent court

cases “like the Mikisew Cree, and the Taku River and the Haida, the ones from out west that came through.” She noted that such court cases led to the consultation of First Nations people and her community preparing for the arrival of all the consultation notices and “whatever else they call engagement.” Joanne stated there are “federal and provincial governments, and they delegate down to municipalities”:

> Who is the Crown within those provincial and federal governments? Is it Trudeau, is he the one that is supposed to come and consult with us because he is the Crown. Or is it that Ford guy here in Ontario who should come in and consult with us because he's the Provincial Crown. The archaeologist is the one that has to deal with the developer and the First Nations because no one knows how to do it.

She also mentioned:

> the Duty to Consult in southern Ontario is better. This office here itself receives over 1,200 notices in one year because a lot of them developers and proponents out there think that a notice is consulting. We have our own consultation and accommodation policy, it states in there that notification, written or oral is not considered consultation to Six Nations. If a housing developer comes to consult with us, we ask for accommodation. We don't demand anything, but we ask that we become accommodated because we're in a court case since 1995 against the government, the Crown. It's still in court, and its close, they probably figure maybe one to two years the court case will be in a full-blown court case. That's when you started determining how they're going to accommodate us on all these broken treaties. So in the meantime, when we ask the proponent of the developer to accommodate us, we tell them that this is what we do until that court decision gets determined what it is. So you're just paying since his Crown delegated it down eventually to you than you're paying on behalf of the Crown. We do get accommodation back sometimes in large sums of money. We've taken it to the community about how the community wanted to be consulted and accommodated, and they decided they wanted land back.

For the Haudenosaunee, Wayne Hill (HDI), noted that the Duty to Consult had not worked: “In my experience the Crown has consistently failed to uphold their duty to consult and thus putting the onus on third parties to provide the accommodation. I have yet to see where the Crown provides a justification or delegate and actually deal with the HCCC on meaningful dialogue.”

Question 15. Section 35 of the Constitution Act, 1982 recognizes and affirms existing Aboriginal and treaty rights of Indigenous peoples in Canada, and the Government holds a fiduciary responsibility to Indigenous people all over Canada. Do you feel the government has upheld their responsibility to accommodate the rights and concerns about your heritage?

The majority of participants (6/10) said the government has not upheld their fiduciary responsibility to their community. Two other participants responded by saying the government has done the bare minimum. One participant did not comment.

Joanne Thomas explained that the rights under Section 35 of the Constitution Act were not simply afforded to Indigenous peoples:

> … to even get that existing Aboriginal and treaty rights of Indigenous people in Canada. For us to get into that 1982 Constitution Act, we had to protest. It was not in there; they left us right out. So we protested, and it went Canada wide. Everybody met in Ottawa. Everybody was scared because there was going to be real riots and everything like that which it almost was. So then the prime minister I can't remember who it was. But he ended up pulling it back and putting that Section 35 into the Constitution Act only after we protested enough for them to do that. Other than that we wouldn't even exist. They tried to reduce their fiduciary responsibility by leaving us out. The government has not upheld the responsibility to accommodate our rights and concerns about our heritage. If they did that they would have already solved every treaty that they've broken across Canada, they have a duty to care.

Mark LaForme noted that it was not until the MCFN negotiated a bilateral Consultation Protocol Agreement with Canada that he felt the government began to uphold their responsibility to accommodate the rights and concerns about MCFN heritage."

Wayne Hill noted that the Haudenosaunee have not been afforded such an agreement:

> Not whatsoever. Ever since the 1924 illegal installment of the Six Nations Elected Band Council, the HCCC has been ignored by Settler Canada as the treaty rights signature and title holders. Canada continues to tout their band council but it's a false govt. which causes political turmoil on Six Nations oppressing the HCCC. The HCCC will continue to uphold and remind the Crown of their obligations and responsibilities which is why the HDI is a necessity to keep going within archaeology speaking the truth.

Sharann Martin, who also represents the HCCC, added:

> We can't count on the Canadian government to provide any justice for us; we can't count on their system. It's going to have to come from us and us doing the work. You know, making sure our kids know their languages, know their ceremonies,

they know their rights, they now their sovereign, that they know who they are. It's not going to come from the government; historically, they don't hold up to what they say they are going to do. The whole reconciliation thing, to me anyway, it's just a huge show, they are saying pretty words and doing pretty things, like statues and events and stuff like that. But they don't want to build anything into their policies and do the hard work of dismantling their framework and the structure. There is going to be on reconciliation without restitution, without the hard work being done, and I have no faith that the Canadian government or even the Ontario government is going to do anything.

Question 16. What is more effective, the Duty to Consult by the Crown or engagement with archaeologists?

Answers to this question varied but some mutual sentiments were evident. One participant pointed to engagement with archaeologists and consultation by the government as non-comparable. Two participants felt consultation duties are pushed onto archaeologists, filtering through all levels of government. Two others noted that neither ethical engagement nor consultation are effective. Another noted the Duty to Consult as being more effective; another noted if the Crown followed through with their duty they would be more effective.

Mark LaForme made this clear: "currently, engagement by archaeologists is more effective but this does not address the Crown's obligation to consult First Nations. Engagement and consultation are totally separate issues." In addition, three other participants said that ethical engagement with archaeologists was more effective. Sharann Martin noted that "It just seems like it has a bit more of a direct impact. It's happening more often on a day-to-day basis. Where the duty to consult with the Crown in regards to the Haudenosaunee and the traditional band council, they are very reluctant to include us on anything." This day to day basis when archaeological engagement occurs has an influence on archaeologists by having them "see the benefit of having us there and that just makes it easier. Most of them like to work with us and they're the ones that kind of step forward" (Anonymous 1).

Two participants stated that the Crown delegates responsibility to archaeologists through the differing levels of government. Joanne Thomas (Six Nations Elected Council) explained the problem with the Duty to Consult delegation. "The problem with that is the Crown delegates the consultation down. We got federal and provincial governments, and then they delegate down to municipalities. Municipalities then delegate down to

archaeologists and archaeologists are the ones that have to engage with the proponents and the developers." Jordan Jamieson (MCFN) similarly felt that "it's more beneficial to deal with archaeologists because the Crown just pushes that duty off to the archaeologist and proponents to do it on their behalf."

Two other participants said neither are effective whether it is the government upholding rights or the archaeologist engaging. Jubal Jamieson remarked that "we are not on the duty to consult list, so we are completely resilient on the archaeologists and developers." He further stated that "No one is required to speak to us; we need to have people that are not afraid to get in a little trouble. We need to have people that won't be bullied by police, that won't be bullied by developers, that won't be bullied by the government, by anyone." These actions, Jubal explained, enables HDI the opportunity to be involved in heritage resource management because they haven't been able to rely on the Crown duty to consult and at times ethical engagement by archaeologists.

Louis Lesage (Huronne-Wendat) maintained that the Crown's duty to consult is more effective to their Frist Nation involvement in archaeology. He stated that "Nine times out of ten it's the duty to consult that results in our involvement. One time out of ten it will be a promoter or an archaeologist. Hopefully, in the future we will reverse this tendency. But actually, it's the duty to consult that drive these tendencies."

On the other hand, Wayne Hill insisted that if the Crown were to uphold its duty, it would be an effective method for involvement in his community's archaeological interests. He noted that "The Crown upholding their duty to consult would be more effective as our constitutional rights and legalities would allow us to ensure our treaty rights to have say and control over our lands. However currently the Haudenosaunee Confederacy is not recognized by the provincial or federal government".

Theme 4. Indigenous Rights and Traditional Knowledge

The rights of Indigenous people to their heritage is becoming a prominent talking point, specifically because of recent Supreme Court of Canada Decisions (see Chapter 3) and the United Nations Declaration on the Rights of Indigenous People (UNDRIP). In this section I present interview responses relating to UNDRIP and its potential

implementation in Ontario, followed by those relating to the use or acknowledgement of Indigenous or traditional knowledge in Ontario consulting archaeology.

Question 17. How can the government and its archaeologists begin to incorporate documents such as the United Nations Declaration on the Rights of Indigenous people (UNDRIP) into cultural heritage management? (Referring to specific articles such as Article 11 and 31 of UNDRIP).

A variety of answers were given to this question. Two believed that UNDRIP documents couldn't be incorporated into heritage resource management until recognition was received on all stages of archaeological assessment. Two others insisted that UNDRIP implementation may need to come from archaeologists incorporating UNDRIP into their own policies, frameworks, and best practices. As Sharann Martin explained, "I think it just comes down to the individual companies and individual archeologists, taking these big documents and our thoughts, and try and incorporate and engage with us to the best that they can so we can be more incorporated into what's happening."

Others felt that the way forward was by seeking equality. Louis Lesage noted that "In the future you will need to consider them as equal and speak a nation-to-nation dialogue, and to say okay if I want to see my project living I need to involve the local First Nation, when the project is in my hand I have to talk to the First Nation that is there to see if they are interested and if it want to be part of the project." What the responses seemed to indicate was that most important to beginning the process of UNDRIP implementation was that archaeologists and the government had to be willing to identify and incorporate Indigenous peoples' perspectives, worldviews, and experiences into Ontario's heritage management framework.

Joanne Thomas (Six Nation Elected Council) noted that I was missing the most important UNDRIP article:

> Article 11:2 "State shall provide redress through effective mechanism which may include restitution developed in conjunction with Indigenous people with respect to your cultural intellectual religious and spiritual property taken with guilt-free prior and informed consent or in violation of their laws traditions and customs" (UNDRIP 2007). That's the best part. That's probably one of the reasons why Canada wouldn't sign it at first. They held up as long as they could in not signing that, then they pulled back on it. It was Canada and the USA, Canada was the last one because they don't have a very good record. It's because they can't guarantee it. They can't ask us for free, prior and informed consent because that would give us

too much power and in their eyes we're not smart enough to have power, to be able to take care of ourselves."

Question 18. Indigenous knowledge is not widely used in Ontario archaeology. How can Indigenous knowledge be incorporated into archaeology in southern Ontario?

This was a sensitive topic to the participants, relating to a history of broken promises and treaties with the colonial government and the resultant lack of trust. Four of the ten participants noted they are or would be hesitant to share their traditional knowledge (TK) because they had already lost so much due to colonialism. Two participants explained it would be reasonable to discuss their traditional knowledge to an appropriate extent only if and when engagement and consultation occurred at the start of a project.

Three responses reflected experiences relating to being in the field as a liaison or monitor, and educating archaeological field staff about traditional knowledge, if relevant and appropriate for understanding the site's context. Mark LaForme (MCFN) suggested that it should be mandatory to incorporate First Nations knowledge into archaeology in southern Ontario. Louis Lesage (Huronne-Wendat) held that First Nations members should be invited to "write regular publications" where they could present traditional knowledge when appropriate and also include interpretations of archaeology in southern Ontario. Louis Lesage also mentioned Indigenous roles in producing archaeological consulting reports as way to incorporate First Nation knowledge. In contrast, Wayne Hill concluded that sharing traditional knowledge "is a moot point and not worthy of a discussion as colonial powers continue to obstruct our abilities."

Question 19. How can the voices of Indigenous peoples and their traditions begin to educate archaeologists and the public about the past?

The majority of participants responded to this question. Communication between Indigenous nations and archaeologists was mentioned several times. Some recommended educating archaeologists through training or schooling, along with the need for them to know First Nations protocols. Two other participants noted that monitors play a significant role in educating archaeologists about their culture.

Additionally, two participants noted that the repatriation of artifacts to affiliated Indigenous nations would go a long way for them to educate the public on their culture,

primarily through museums or displays presenting the tangible artifacts. Wayne Hill again believed this was a moot point, observing that “it is a two-way street and not until were doing as we see fit can we have conversations such as this.” Sharann Martin felt that it wasn’t up to Indigenous peoples to educate non-Indigenous archaeologists and the public. “The onus,” she said, “is on non-Indigenous people to do the work, to put in the effort, to learn more about the stuff that’s happened in Canada, what we went through to get to this point, and what still continues to happen. So many people are always so surprised when they hear about residential schools and how terrible all of the policies that were aimed at getting rid of us.”

Theme 5. Stewardship and Decolonization

The final theme revolved around stewardship and decolonization of archaeology in Ontario. The five questions focused on the ownership and control of archeological sites and the prospects for decolonizing archaeology in Ontario.

Question 20. Does provincial control over your ancestral heritage sites prevent you from learning about your heritage? Does the current legislation limit the development of your culture?

This question was meant to determine whether provincial control in Ontario archaeology prevented or limited participants and their nations in developing (knowledge development through cultural heritage recovered in archaeology) or learning about their culture. Five participants felt that provincial control did not limit their learning about heritage and that legislation hadn’t limited the development of their culture. One noted that their nation was self-reliant, stating “they are going their own way, moving forward (Anonymous 1). That is, while heritage legislation had placed restriction on Indigenous involvement, it did not prevent Indigenous nations from learning about their ancestors and culture, although Jubal Jamieson added that, “it makes it more difficult.” Three others held that provincial control and heritage policy has limited or prevented them from learning and developing their culture; two of whom mentioned accessibility barriers to information from archaeological excavations.

Question 21. Why haven't Indigenous communities been able to have more control over ancestral heritage and what do you feel Indigenous people can gain by having more control over ancestral sites?

Four participants answered the first part of the question with similar sentiments revolving around colonial thinking or colonialism. Joanne Thomas stated:

> I don't think we'd have more control over ancestral heritage sites or anything because it starts with the ministry right, they say they hold the artifacts in trust for the people of Ontario. Well, it's not theirs. It's obvious it's not theirs because we're finding this stuff hundreds of years before Europeans came over, but they don't want to give up control. It's a colonial thing.

Sharann Martin added:

> It comes down to colonialism. Like I said there are so many practices that tried to eradicate us and just get rid of us and the problems we caused. It's still alive today, that attitude of the Canadian government knows best, they know this reconciliation idea they have is the way forward. Ever since contact our control has been slowly stripped away. You know we are still here, and we are fortunate. Some nations haven't been as fortunate as the Haudenosaunee. It's been a policy for us not to have control over anything that pertains to us; that we are a problem that needs to be exterminated basically.

Two other participants commented that the current legislation prevents them from that control. Louis Lesage explained that "the legislations [sic] do not give us the room to have such control, we cannot own our heritage." The other participant elaborated further by saying "maybe they just didn't want us to have that power over that" (Anonymous 1). One participant mentioned that perhaps their community lacks the resources to have such control. Two participants were stymied by the question and another was reluctant to provide comment.

The second part of the question on what Indigenous peoples might gain by having more control over ancestral sites yielded only five responses. One participant felt that knowledge could be gained and have an impact on the younger generation. Two MCFN participants had similar responses, Mark LaForme commented "Having more control will allow us the opportunity to gain a deeper understanding of how our ancestors lived which contributes to the understanding of our ancestral culture." Jordan Jamieson added that it would afford their and other nations "a stronger connection to the past."

Jubal Jamieson also offered a more in-depth and heartfelt description on the matter, explaining that:

The importance of us having control over our artifacts our cultural heritage, it's a matter of pride. In reality, it won't make a whole lot of difference; we are still going to keep going forward, we are still going to keep surviving. If we don't have access to our artifacts, cultural information, sites, locations of our sites and all these things, we are still going to go forward it will just be more difficult. It will just hurt a little more. It won't stop us. If we were the caretakers of our physical artifacts and heritage, it would be easier for us to regain some dignity, honor, and self-respect. A lot of our youth are susceptible to drug abuse, alcoholism because they feel beat, down trodden and oppressed, and I refuse that. I refuse to be a victim. I deny it; it's not happening, we need to stay strong, stay focused keep moving ahead. If we maintained or regained all of our artifacts and information on these sites that would help us in the sense that it would reassure us.

Louis Lesage also noted that having control over ancestral heritage sites would allow the "possibility for keeping our own permits, yes we do accept archaeological work here because of …. Or no we will not give you any permit because of… That's the kind of control that should be seen in the future."

Question 22. Should archaeologists be the primary stewards of heritage? How can heritage control become more equitable?

All but one participant answered and they agreed that archaeologists should not be the primary stewards of heritage. Five mentioned that archaeologists should not be primary stewards and that many archaeologists are allies and can still have roles in stewardship of Indigenous heritage. As Jubal Jamieson explained, "I'd say the keepers of the culture should be the keepers of the artifacts. I think it's not necessarily a bad thing that archaeologists are stewards of the cultural artifacts, but we are the stewards of the culture." Equitable stewardship practices were demanded by many and to most participants they felt their affiliated nation should be the primary steward of their ancestral heritage. Many gave opinions on how Indigenous roles can become more equitable.

Louis Lesage explained that "that's a sad situation in Ontario that the archaeologists are the stewards of our heritage. The artifact collections are in many places in Ontario. It's a case by case, and you have to contact the archaeologist to have access to your heritage." Engagement from the beginning of the process, including developing or improving transparency, trust, communication and equal access to artifact inventory and site information were all offered as ways to make stewardship more equitable. Repatriation of artifacts was also offered as a solution by two participants.

Question 23. What are your feelings on Indigenous history being written by mostly non-Indigenous people due to colonial frameworks?

The majority responded to this question, and agreed that although much history has been written about them, it may be biased when based on non-indigenous viewpoints. One participant said that “Our stories get passed down through tradition, families to families, I believe as long as we know where we came from and we know our history it doesn’t matter what anyone else says or thinks” (Anonymous 2). Mark LaForme felt that it was a “necessary evil. It is important that the history be accurately written, but until such time as First Nations have the capacity to do so, it must fall to others.” Likewise, others noted that there is still time and that archaeologists should look to Indigenous nations to educate themselves about particular Indigenous culture and histories. Another participant mentioned the problems of colonial frameworks and the influence they have on the production of non-indigenous literature. As Wayne Hill explained, “It’s created a negative patriarchal stereotype, romanticizing the Indian for whatever narrative they were trying to portray at the time. We are still undoing those negative ideas created by the colonial framework.”

Question 24. Do you feel that recent affirmation of Indigenous rights, such as in recent Supreme Court of Canada cases (SCC) and UNDRIP, will help to decolonize archaeology?

All participants answered but were evenly split: half (5/10) believed the SCC and UNDRIP will help with decolonization, while the remainder said it would not. The majority of “Yes” respondents gave insights into the slow and arduous process of policy making including the application of SCC, Indigenous rights into existing legislation, believing that over time it will help to decolonize archaeology. The other five were less positive, responding that “it will take more than an affirmation,” that UNDRIP is “just another document,” and that the SCC and UNDRIP “only work within the framework of a country.” Sharann Martin offers a unique opinion:

> There was one phrase that I heard over and over again in university. It was “you can’t dismantle the master’s house with the master’s tools." I don’t think any answer for decolonization is going to come from any kind of government framework, and it’s going to have to come from us and our traditional frameworks.

Question 25. Do you believe it is possible to decolonize archaeology in Ontario?

All ten participants noted that this is possible, noting that decolonization will come from a combination of factors, including the continued presence of Indigenous nations in archaeology, hard work by non-indigenous allies because Indigenous nations are ready for progress toward decolonization, and the size of the archaeological community in Ontario is small. Jubal Jamieson (HDI) elaborated on the size of the archaeology community in Ontario playing a role in decolonization saying:

> The archaeology community is actually not very big, sure there might be a thousand people, that's not that many. I have worked in archaeology for about five years, and I've worked with just nearly everybody. The people I haven't worked with I know about them. I think it's [decolonization] very doable; I think it's something that can happen. I always try and stay positive, and I have high hopes for the young archaeologists coming up. I am going to be here for a long time. If this generation doesn't make the change, then make the next one will or the one after that.

All acknowledged that decolonization won't happen overnight, and that the process will be long and painful. Louis Lesage stated that to "fully decolonize is utopic but step by step it [archaeology] will be decolonized I can tell you that for sure." Others, such as Wayne Hill, noted it could be done but that "Indigenous people need to determine the movement of decolonization."

Chapter Summary

The results of ten interviewee's responses to 25 questions were presented in this chapter, organized into five overall themes: 1) Demographics; 2) Heritage Resource Management; 3) Involvement; 4) Indigenous Rights and Traditional Knowledge; and 5) Stewardship and Decolonization. Each theme was defined by the responses of the interviews, giving knowledgeable insight into cultural heritage management and Indigenous involvement in southern Ontario. Although a small sample population was used in this study, the authenticity and reality of content provided by three First Nations and the Haudenosaunee Confederacy participants created valuable evidence of their inclusion and lack thereof in southern Ontario heritage resource management. Participants shared many similar insights specifically when dealing with limitations with engagement practices and their roles in cultural heritage management in Ontario relative to their personal experiences and their knowledge of their nation's involvement.

Chapter 5.

Discussion and Conclusion

My intention with this research was to gather Indigenous perspectives on the Ontario heritage resource industry and use them to strive for change in the practice and more involvement of Indigenous peoples. I have made many Indigenous colleagues in archaeology over my seven years, while also becoming more aware that the policies restricting Indigenous peoples involvement in the practice of heritage resource management and overall recognition of their past and living culture has not changed.

The interviews conducted with ten representatives from three First Nations and the Haudenosaunee Confederacy Council provided a range of responses to my found overarching research questions:

1. What are the concerns of Indigenous nations when it comes to archaeologists controlling their heritage?
2. What are Indigenous nations concerns with Ontario's archaeological mitigation practices?
3. What are the current roles of Indigenous nations on archaeological sites during field work in Ontario?
4. How can the practice of engagement with Indigenous nations become more equitable and collaborative?

In most cases, the responses were similar to the ideas and concerns identified in my background research (Chapter 2). In other cases, they differed or were unique, providing the opportunity for new or deeper insights into Indigenous conceptions of heritage and their concerns about heritage management.

In this final chapter, I discuss the results of my interviews and how these relate to my literature review. I address each of my four research questions through the interview responses and corresponding background literature. I conclude by reflecting on what the results of this study reveal about archaeology and heritage management in southern Ontario and their relationship with Indigenous nations whose heritage it is that we unearth, and offer a set of recommendations for moving forward.

1. Concerns about Archaeologists Controlling Indigenous Heritage

The heritage industry in Canada has been dominated by a provincial policies that restrict Indigenous engagement in heritage resource management. This has contributed to an Indigenous history institutionalized through a Western perspective. In Ontario, heritage management is practiced by consulting archaeologists under the provisions of provincial legislation. In this context, archaeologists are the experts hired by the proponent (land developer), legislated by the government, and guided by the minimal standards they created. Ontario archaeologists thus control, albeit indirectly, who and how Indigenous nations interact with their heritage. The result is that Indigenous peoples have very limited participation in heritage management in the province. All interview participants articulated their concerns within this context.

Indigenous Concerns

Three significant concerns were raised by participants about the archaeologists' control of Indigenous heritage: 1) the use and implementation of standardized practices; 2) the tendency of archaeologists to focus primarily on HRM as a for-profit industry; and 3) the positioning, by legislation, of archaeologists as the stewards of Indigenous archaeological sites and artifacts, which promotes a Western values-oriented interpretation of heritage. I address each in turn here.

Standardized assessment and engagement procedures implementation and use

I gathered significant feedback about the standardized practices and procedures first in Ontario HRM. Participants noted an overall lack of inclusion in the heritage resource management assessment process (Theme 3 questions on engagement in southern Ontario cultural heritage). They attributed this to archaeologists employing the minimal standards of practice cited in the 2011 *Standards and Guidelines for Consultant Archaeologists* and the 2011 *Draft Technical Bulletin on Engaging Aboriginal Communities in Archaeology*. The engagement practices in the bulletin were described as discretionary or a "suggested best" practice, specifically occurring at Stages 1 and 2 but also occurring in 3 and 4. Overall participants felt that engagement is not enforced by the MHSTCI when it is required. Requirements are stated in the *Standards and*

Guidelines for Consultant Archaeologists, in Section 3.4 and 3.5. A related concern was the archaeologists only recognize First Nations governments (per the *Indian Act*), a position that creates barriers to the participation in the heritage resource management industry for traditional Indigenous governments like the Haudenosaunee confederacy.

Kisha Supernant and Gary Warrick note that Canada replaced the HCCC in 1924 with the Six Nations Band Council, recognized today by Canada as the legitimate government of the Six Nations of the Grand River (2014:577-578). Moreover, the practice standards limit Indigenous on-site involvement in HRM. In some cases, Indigenous peoples are excluded altogether. Joanne Thomas (SNEC) described one instance where this happened:

> We decided to take this job in Brantford. I requested to have a monitor at stage 2 because I look at it sometimes like how are we going to get experience at Stage 2 if we're not doing them. This archaeologist called the ministry and talked to the ministry and said: "Do I have to have a monitor on-site at Stage 2?" They went into a discussion about this, the archaeologist and the MHSTCI.

To add to problems of Indigenous inclusion and recognition several participants also cited archaeologists using professional and discretionary judgment (see Questions 5 and 7 responses). Participants described that the archaeological standards and guidelines fail to account for certain situations arising in the field. When these circumstances arise, it is often left up to the discretion of the archaeologist and their professional judgement. One participant also attributed this to paternalism. As Sharann Martin (HDI) explained:

> I honestly think a lot of companies and archaeologists, especially those that have worked in the '70s and '80s in the early days of Ontario archaeology, there is still a whole lot of paternalism left over. This idea that they don't need to consult with us. That's it their right to do whatever they want within their job. They are the archaeologist; they are the ones doing the study, and the idea that we don't need to be included in it. At the core of it, there is still the idea that we don't need to be included

Furthermore, participants mentioned that the standards and guidelines can be perceived differently or have ambiguous meanings to individual archaeologists.

The tendency of archaeologists to focus primarily on HRM as a for-profit industry

The second major concern was the business-oriented nature of heritage management archaeology, as revealed in responses to Interview Questions 5, 7, and 8. To obtain a

license in Ontario, archaeologists must have the required credentials, such as an academic degree, a given number of field hours in archaeological consulting and a membership in an archaeological society. Having a license allows archaeologists to operate a business in the heritage industry in Ontario. The archaeological consulting industry accommodates the proponent's demands based on time and money restrictions, rather than archaeological and Indigenous values. The foundations of the industry are found in the *Ontario Heritage Act* where archaeological and heritage conservation are placed under one act and the oversight of a Ministry providing professionally licensed archaeologists to cater their services to private and public sector developers. Overall, the competition for archaeological projects is focused on proposals whereby proponents make choices based on the consulting services they are being offered. Competition in the heritage industry market can affect the quality of work in Ontario heritage management by potentially cutting corners and employing minimal standards of the practice to meet the client's demands. Neal Ferris and John Welch (2014:277) explain that heritage resource professionals “regularly have to defend and continually revise their reasoning over costs and revise their reasoning over the particulars of archaeology in response to developers complaints over costs and regulatory oversight that only really requires archaeological conservation be done, not necessarily done well”.

The business practices in heritage resource management in Ontario have not been discussed much in the literature, nor did participants in this study identify Ontario HRM as a capitalistic enterprise. However, Hutchings and La Salle (2015: S14) have commented on the reality of archaeology as a multi-billion dollar industry in North America, and offer some comparisons provincially. For example, Hutchings and La Salle (2012) have also challenged four tropes of the formal state of education in archaeology in British Columbia where 97 percent of archaeology was conducted in the for profit heritage industry (Hutching and La Salle 2015:S13). They have argued that:

> 1) Archaeology is not about the preservation of sites and material, but rather is about facilitating the destruction of landscapes; 2) archaeology is not undertaken in the name of research to learn about the past, but undertaken to fulfill legal and regulatory obligations in the present; 3) Archaeologists do not have a responsibility to disseminate their results, expect to their clients and the government; and 4) archaeology is not undertaken for the public good, but instead a private, for-profit enterprise (Hutchings and La Salle 2012:15).

The positioning, by legislation, of archaeologists as the stewards of Indigenous archaeological sites and artifacts

The third concern relates to archaeologists being positioned as the stewards of cultural heritage sites under the licensing requirement of the *Ontario Heritage Act* to conduct archaeological assessments. The majority of responses to Question 22 indicated that archaeologists should not be the primary stewards of their cultural heritage. In short, it's simply "not their heritage" as Joanne Thomas stated. Smith (2006: 29) observes westernized archaeologists primarily identify "aesthetically pleasing material, objects, sites, places and/or landscapes that current generations 'must' care for, protect and preserve so that they may be passed to nebulous future generations for their 'education', and to forge a sense of common identity based on the past." However, for Indigenous people this has impacts because tangible and intangible heritage is symbolic to identity and cultural claims. Archaeologists as stewards of archaeological sites and artifacts can, if they choose, grant, exclude or control that legitimacy (Smith 2006:282). Several of my interview participants noted that (their) Indigenous values, beliefs or understandings are rarely incorporated into heritage resource management in Ontario due to the responsibility archaeologists hold in decisions about engagement, excavation, and recognition.

2. Indigenous Concerns about Archaeological Mitigation

"Mitigation" in the Ontario cultural heritage industry is here defined as the process in which archaeological assessments are completed to either protect or alleviate a property of cultural heritage in the context of land-use planning and development. Included in this process is the engagement of Indigenous communities relative to the four stages of HRM fieldwork as introduced in Chapter 2. Below I discuss Indigenous concerns related to each stage and the accessibility and repatriation of artifacts following their completion.

Stage 1: Background Study and Property Assessment

Interview participants expressed that they are excluded from the Stage 1 assessment process (see Results: Theme 3). A secondary concern related to the information written by the archaeologist in these studies is that Stage 1 assessments usually exclude Indigenous peoples from participating in the study because of the discretionary or

“suggested best practices” in the standardized engagement practices. As a result, archaeologists may misrepresent their cultural and political values. Joanne Thomas (SNEC) explained this through her experience in response to her feelings on Indigenous history being written in archaeological reports (see Question 23):

> Most of the facts are not correct in archaeological assessments as far as the history of such nations. Most of them are not correct. That's where I corrected it. I have a blurb I sent to them, and I said, "why we don't just put this in there and leave it at that instead of going into a three-page history you know nothing about. I mean, if you're taking it from somebody else's account of how they've written it, how they see it, why you don't give us a call. We have people here, that's what this resources department does. We have a land use unit. We have a land research unit. They know everything about everything, and then we have a wildlife unit here. Just ask us instead of writing about it and trying to explain our history.

Traditional knowledge was another concern with this stage (Theme 4: Question 18). Ontario legislation mainly protects material culture (the tangible aspects of heritage); other traditional knowledge or intangible heritage expressions are not addressed in Stage 1 assessments. The *2011 Engaging Aboriginal Communities in Archaeology* document does encourage engagement with local Indigenous peoples in Stage 1 “to ensure there are no unaddressed Aboriginal cultural heritage interest.” However, it is not required, ultimately leaving traditional knowledge, such as traditional use, sacred and spiritual sites, out of the study (MHSTCI 2011b:4).

Stage 2: Property Assessment

The assessment methods for Stage 2 assessment are usually walking ploughed fields or digging shovel test pits (MHSTCI 2011a:6).The MHSTCI encourages archaeologists to use a “wise practice” to gauge Indigenous interest, although it is not required (MHSTCI 2011b:4). The major concern of Indigenous participants in the study is that they are not involved or consulted at the property assessment stage because it is not required. One participant was optimistic that this will change in the future: “I think we will be engaged with a lot more moving forward, including Stages 1 and 2” (Anonymous 1). Sharann Martin (HDI) mentioned that Indigenous exclusion from this stage can result in “some instances where certain companies don’t do their due diligence, or they are field walking in terrible conditions, working with potential sites with our cultural material, in our land, and not being the most respectful.” One participant went so far to say that being included

on Stage 2 projects by a company differentiates it from being “a good company or a bad one”:

> The good companies will meet with the developer and contractor and whoever and say yeah I think you need to contact so and so because this is where engagement needs to start. Even though you [archaeologists] know way ahead of time about stage one and stage two. Even though it's not stated in the standard and guidelines that's where that true engagement was supposed to happen, at Stage 1 and Stage 2. But because it's written as an example [required and not just recommended] of engagement at Stage 3 or 4, which is the way it was explained to me from somebody at MHSTCI. That's what it stated and that what everybody follows (Anonymous 3)

Stage 3: Site Specific Evaluations

Stage 3 assessment require additional engagement by the archaeologist through the *2011 Engaging Aboriginal Communities in Archaeology* (MHSTCI 2011b:3) when:

> …you are assessing the cultural heritage value or interest of an Aboriginal archaeological site that is known to have or appears to have sacred or spiritual importance, or is associated with traditional land uses or geographic features of cultural heritage interest, or is the subject of Aboriginal oral histories. [Standards and Guidelines for Consultant Archaeologists, Section 3.4] and at the end of Stage 3, when formulating a strategy to mitigate the impacts on the following types of Aboriginal archaeological sites through avoidance and protection or excavation [Sections 3.4 and 3.5]: a) rare Aboriginal archaeological sites; b) sites identified as sacred or known to contain human remains; c) woodland Aboriginal sites; d) aboriginal archaeological sites where topsoil stripping is contemplated; e) undisturbed Aboriginal sites; and f) sites previously identified as of interest to an Aboriginal community.

It seems that few participants considered Stage 3 to actually be a requirement rather than just a discretionary action by archaeologists (see Results: Question 5 and 7). As per the description above, it depends on the archaeologist's knowledge gathered previously. The phrase "known to have" implies that archaeologists would have had to have previously engaged Indigenous interest which isn’t the case reported by participants. Another concern with Stage 3 was that test units didn’t need to be sterile to determine the site limits on lithic scatter sites. One participant stated:

> For Stages 3, the lower you go with your positive count the better understanding you have for when stage four comes. So you know how scatters they can just meander all over the place. But if you do Stage 3 and can go down to zeros, you'll be able to see how big your site is, and you'll be able to give the proponent a better

understanding of the site. In the end it will avoid a lot of problems in the Stage 4 (Anonymous 1).

Lithic scatters usually require: “a) one or more test units yielding 10 or more artifacts, b) one or more test units yielding five to nine artifacts, including at least one diagnostic, c) one aboriginal ceramic sherd, d) one or more sub surface feature” (MHSTCI 2011a:58).

While HRM projects often relinquish portions of sites to development, that some or indeed any artifacts are left to the bulldozers can be a concern. Jubal Jamieson (HDI) argued that “the artifacts themselves are important.” This is a good example of the need to articulate differing worldviews between archaeologists and Indigenous peoples. Nicholas et al. (2018: 8) observe that Indigenous belief systems promote active rather than passive engagement with the world and that proper adherence to obligations is needed to maintain the world; “there may be no difference in the part and the whole, and the person it represents” (p. 8). Jubal Jamieson (HDI) echoes this when he stated that having the artifacts in place “builds pride, dignity and self-respect in the Haudenosaunee people. When you are able to have a physical connection, a physical link to our ancestor. As far as the locations go, they are possibly more important than the artifacts, the ossuaries and burial grounds are even more so, they are supposed to be guarded and respected.”

Stage 4: Mitigation of Development Impacts

Indigenous nations are usually engaged in this stage. In Stage 4, sites are protected long-term from development or disturbed removing the artifacts from the landscape through archaeological excavations. Participants were primarily concerned with the erasure of sites and cultural heritage from the landscape due to development. Village sites were of great concern, as were human remains. Participants also spoke of the time needed to take on such a task properly when put under pressure from proponents. Jubal Jamieson (HDI) gave his thoughts on this matter:

> For instance, in the standards and guidelines, how when you're doing a village site, you have to excavate the high yield, high potential area, you do the best you can, and then the rest is just stripped with mechanical topsoil removal. I think there would be a lot more excavating by hand if we had our way. I know that's not financially desirable to a developer, but I think that's reasonable considering what we are doing out there.

> Some of the sites are really nice, some of the village sites are amazing and to wipe them off the face of the earth I think they should be recorded and excavated to the highest level. I'm not saying necessarily to the level of an academic dig because they are extremely slow, but definitely to a higher degree than it's currently required. It's not like the site is still kind of there when they do a housing development, it is completely gone.
>
> I think there should be more effort put into the recording of such things and recovery of artifacts from such things because of the level of destruction. It's not like you're way up north someplace where you're excavating a site because you're near a pipeline, where it may or may not ever be impacted, it's not likely another human will ever set foot there in the next 50 to 100 years. With these sites here [southern Ontario], they are going to be gone forever if we don't collect and record everything there is no other opportunity in the future. The reason that's important to me is I feel; to this point, it hasn't been done to the standard of my liking, whether the standard of what I would like to see is reasonable enough doesn't matter. The standard I would like to see would make me feel good. It may not make any sense, but I would like to see it done better, more digging, more recovery, more recording, but it would cost a lot of money to the developer or client. I see that as the price to pay to destroy such a thing. I don't know what can be done about that. I'm not about limiting archaeology, so much as doing the best archaeology we can do.

Another participant mentioned the lack of village site protection: “There is a bunch of other places [historic houses] that have been protected by Ontario heritage, but how many of them actually involve a village site of our own people. The only time we did that is through a cemetery, and it's just a small 5 by 5 [meter] area that's protected and can't be touched” (Anonymous 3).

Similarly, Louis Lesage (Huronne-Wendat) spoke on the same topic:

> For example, if we know that there is a potential in one area for a Huronne-Wendat village, we would like to be involved at the very beginning, sometimes we are involved when a promoter already has the permits, so, unfortunately, it’s not too late, but it’s very late, these are the kind of things we would like to see changed. Another aspect, let’s say you find something very unusual that you want to protect, once the project is started, it’s almost impossible to stop it. Only if human remains are involved, then you can stop it [an archaeological excavation]. It’s almost impossible to stop a project without the permits, for example, digging a village, the project will move on, and there will be no possible compensation and accommodation, it will be very difficult to save it.

This sentiment ties back to Smith (2004) discussion of the authorized heritage discourse and the early 20th-century preservation measures taken to build Canada’s national identity. Archaeologists today need to reconsider the balance of Western values of archaeology when concerned with Indigenous archaeological sites. In other words, the artifacts and sites have far more significant meaning to Indigenous people than a

paycheck. By not involving Indigenous peoples in heritage resource management, archaeologists not only devalue heritage (Hollowell and McGill 2014:370) but reinforce colonial ideas.

Accessibility of Information

The nature of the heritage industry as a business restricts access to archaeological reports. In many instances, the archaeologist may be required to sign a non-disclosure agreement with clients. This impacts Indigenous peoples because they are denied information derived from research on their ancestral heritage sites.

A monitor or field liaison rarely sees the finished results of an archaeological assessment (see Question 20). When I asked one participant if they had ever seen a report, he said “There are a few sites that I've been on for a while, and I would like to see at the end what the reports say” (Anonymous 1). Sharann Martin (HDI) similarly responded: “there is still kind of an accessibility barrier there. We don’t see the reports of these projects, and we don’t see interpretations of the site.” Several other participants commented on lack of access to artifacts and collections, the topic most prominent in Theme 5: Stewardship and Decolonization. However, the Ontario Archaeological Society and its members have changed ethical principles to affirm that Indigenous nations have an “inherent right to practice stewardship and that this stewardship includes the right to maintain, control and protect, develop and access those properties” (OAS 2017b: Principle 3). The anticipated outcome of this on the heritage resource management industry is still to be realised.

Repatriation

Artifacts in Ontario are held in trust for the citizens of Ontario under the *Ontario Heritage Act*. Archaeologists are required to preserve and store artifacts recovered from both research-based projects and HRM projects. Repatriation of artifacts was a topic I asked about in my follow-up questions (Results: Question 19 and 22). Sharann Martin (HDI) shared her view in regards to equitable practice:

> Even something as simple as us being in possession of our own cultural heritage, including repatriation of all artifacts that have been excavated and studied, put back into our hands. I think it would go a long way for people to realize and

recognize that we have more authority than the archaeologists, simply for the fact that it's our history, it's directly related to us.

Jubal Jamieson spoke about repatriation in the context of stewardship:

> It would be more appropriate for the artifacts to be repatriated rather than a steward. When it's repatriated, some artifacts may be cultural or spiritual, some things belong to certain ceremonies, certain feats these things belong to, they need to be reburied. They're sacred, and they were buried for a reason and need to be reburied.

Louis Lesage (Huronne-Wendat) talked about repatriation of artifacts collected from Huronne-Wendat village sites and how his nation has lost so much of their heritage. As Mr. Lesage explained, "this heritage is now in museums, basements of government's agencies, and universities. We don't have access to this, and in fact, we have nothing." Mr. Lesage continued:

> …about one year ago we got a letter from the government of Ontario saying, if you want to repatriate any artifacts from Ontario to Quebec we will facilitate and help you to get them and even between the two provinces we will help you. The problem then is we have millions of artifacts in Ontario and if we want all of them where would we put them? We don't have the facilities, we already have a museum, a small one, we don't have the room to put hundreds and hundreds of boxes, we don't have the facilities to take care of them actually.

Repatriation in Ontario is still very limited to date, the exception being the return of "accidental discovery" of human remains found during an archaeological excavation. In this event, the excavation comes to a halt. A coroner determines whether the remains are associated with a crime scene or determined to be an accidental discovery. Accidental discoveries are usually followed by an impact assessment and burial report (TMHC 2018). In this assessment, age, burial, and cultural affiliation are ascertained. The 2002 *Funeral, Burial and Cremation Services Act* (Government of Ontario 2002) requires an archaeologist who investigates a burial to provide their collected information to inform the declaration. The declaration identifies the landowner and the representative of the deceased (TMHC 2018). However, Warrick states that, although relatively uncommon, Indigenous burial sites found are usually preserved in situ or temporarily removed and then reinterred as close to the original location (2017:92). In any case, under provisions of 2002 *Funeral, Burial and Cremation Services Act,* the professional archaeologist is not required to consult Indigenous nations about ancestral burials (TMHC 2019).

Both Warrick (2012) and Williamson and McDonald (2015) note that there are overlapping territories of the Huronne-Wendat, the Six Nations, and the Mississaugas of the Credit River First Nation in southern Ontario. Nonetheless, repatriation of artifacts and ancestral remains in contexts of multiple Indigenous nations claiming ownership is a delicate and challenging process that should be handled between Indigenous nations.

Overall Mitigation Concerns

Participants explained that they and the nations they represent are not against development in heritage resource management. However, the authority held by archaeologists in practice and exercising Indigenous engagement remains a concern. Overall, the heritage industry has created barriers for the participants, specifically with involvement in most early stages of assessment. Furthermore, when involved Indigenous groups are exposed to discretionary archaeology practices and inconsistent engagement on Stage 3 and 4 projects. Also of concern was archaeological site disturbance and destruction, which is far more prevalent than protection (see Ferris and Welch 2014:225 and Williamson 2010 35-37), a situation reinforcing colonial ideals because economic values are foregrounded over heritage values. Furthermore, following project completion, access to site information and interpretation is restricted, and the benefits of the research flow almost exclusively to the archaeologist and the developer.

3. Indigenous Roles in Archaeological Sites Protection

Archaeologists have started to include Indigenous people in archaeology in Ontario. As already noted, Indigenous monitoring began in Ontario in 2003 on the Redhill Creek Expressway (Warrick 2017); today, the placement of Indigenous monitors on archaeological sites is common practice. In 2017, the Ontario Archaeology Society amended its constitution to redress the imbalance of stewardship over Indigenous heritage (Racher 2019)[21]. Among many revisions to the OAS Constitution and ethical

[21] To elaborate on the “redress the imbalance of stewardship over Indigenous heritage,” Racher (2019) explains that provincial policies have long restricted “who does archaeology, how it is done, which sites are significant ...and which may be destroyed.” Indigenous nations have only recently (2011) been able to offer input through engagement practices but “their ability to protect their own history is subject to severe legal constraints. When conflicts have arisen, the First Nations have rarely found themselves on the winning side” (Racher 2019: https://www.linkedin.com/pulse/who-

principles, the OAS states “We affirm that Indigenous communities have an inherent right to practice stewardship over their own cultural properties (including but not limited to: archaeological, spiritual, and historical sites, artifacts, designs, ceremonies, technologies, visual and performing arts, oral traditions and written and oral literature) and that said stewardship includes the right to maintain, control, protect, develop and have access to those properties” (OAS 2017b: Principle 3) However, there has been no change to either the *2011 Standards and Guidelines for Consultant Archaeologists* or the *2011 Engaging Aboriginal Communities in Archaeology*, which continues to restrict the participation of Indigenous nations in HRM projects.

Here I discuss the four roles of Indigenous participants have on archaeological sites, as expressed in interviews or documented elsewhere. These are (1) site monitors, (2) supervisors, and (3) archaeological field liaisons, each representing their affiliated nations, while also providing the intimate role of (4) ancestral caretaker. My study included two Indigenous monitors and three others who hold archaeology monitoring supervision positions. The majority of participants (9/10) noted ancestral caretaking as an additional role within their employment positions in Ontario HRM (see Results Chapter Question 3).

Indigenous Monitors and Supervisors

An Indigenous monitor is a member of an Indigenous nation working in heritage resource management. Indigenous monitors minimally have some formal training in archaeology, whether it’s from their community or previous employment in the practice of archaeology. Monitors are employed by their Indigenous nations, with permission and funding provided by the proponent to represent their interests in archaeological work. Indigenous supervisors are individuals who had monitoring experience and subsequently now take on administrative duties, such as site coordination for Indigenous monitors and oversight of several daily activities on archaeological sites which their nation is engaged on.

drives-archaeology-indigenous-stewardship-social-justice-racher).

There has been some debate over the term “monitor” and how it has been interpreted by some as keeping tabs on archaeologists (Devries 2014:81). Based on interviews with Indigenous participants, archaeologists, and developers, Devries observed that:

> One research participant explained that monitors need to be and are being taught that archaeologists are generally truthful and transparent, and that it is not the responsibility of the representative in the field to police the work being done… One archaeologist ascribed the attitude of distrust and watchfulness to the early days of monitoring were instructed by their community not to work alongside archaeologists, but rather carefully observe their activities (A05). This approach is however changing (2014:81)

Similarly, the role of monitors in “policing the practice” surfaced in my interviews with participants. As Jubal Jamieson (HDI) explained:

> I view it as partly negative to be a monitor per se. I don’t like the feeling of being an archaeology police; this is kind of an in-depth thing. Working for HDI and working for my traditional council, I have to follow our law. Part of our law is the Two-Row Wampum agreement[22] that is we are supposed to travel side by side down the same body of water without interfering with one another, parallel, that’s what I aspire to be in archaeology

Another participant added that by having their monitors educated on all the practice and engagement standards, their affiliated nation was better positioned to enforce minimal standards of archaeological practice:

> All these guys [monitors] know the standards and guidelines. They say well in the engagement process [*Engagement Bulletin*] it states… I even tell them to do the page, the section. Quote all of that stuff [practice and engagement policies and principles] to that person [archaeologist]. I tell them when they're monitoring; you have to know that stuff [practice and engagement policies and principles] because that's the only way they [archaeologist] are going to listen. Otherwise, they [archaeologists] are going to come back and say something different (Anonymous 3).

Indigenous monitoring, in this sense, may suggest trust issues between Indigenous groups and HRM archaeologists, and, more broadly, the state. As mentioned by Warrick (2017:91), the vast majority of archaeology done in Ontario is defined by for-profit enterprises in which archaeologists provide a service prior to land use and development. This can lead to economic pressures placed on the archaeologist that can translate into

[22] The Two-Row Wampum or *Kaswentha* symbolizes the political relationships between the Haudenosaunee and European Nations that colonized eastern North America (Supernant and Warrick 2014:38).

bad relationships with Indigenous nations (see Theme 3: Involvement: Questions 7 and 8). The legislation similarly fosters distrust by allowing minimal opportunities to include Indigenous people (only required on Stage 3 and 4 assessments). In other words, when monitors are included in archaeological assessments, they are expected to make sure the archaeologist is using their proper standards and treating Indigenous cultural heritage with respect.

Two participants also noted monitoring with roles of educating about traditional knowledge on site when appropriate. Jubal Jamieson in a monitoring position for HDI gave his insights from a practical field position. Mr. Jamieson stated:

> The only way you are going to have cultural input is to have the cultural holders there working together, that's where I come in, that's where my people come in because we want to be there, we want to contribute we want to be part of it. I can speak for myself and a few others; when I'm on site, I'm there because I want to be there. I'm not there for the money for the prestige or anything. I'm there because I want to be there, if I were wealthy enough, I would be there for free. I've gone on vacations to see archaeology sites, and when I was a kid and when I was not an archaeology monitor I would go do these things in my spare time whenever I could make time. I want to be there, I want to know who was there and when they were there, I'm drawn to it. We need to have native monitors there; you need to have that native perspective there.

The other participant spoke similarly about the monitors stating:

> When you are on a site and you're working with people, you gain that knowledge of when a person is genuinely asking and when that person is asking just because. Well, when you know you have somebody like that it's up to you to share and how much you share. The monitors know all their history, they know different things. It's up to them what they want to share. I had people on site that wanted to know ceremonies. I'll say yeah we still do those, that's all I'll tell them. It's up to the monitor's discretion on how much information they want to share (Anonymous 3).

On a different note, one participant who was a monitor stated that archaeologists and their clients, "see us as a detriment to be out there. They think we're trying to slow them down or stop them from doing what they need to do" (Anonymous 1).

Based on my seven years of experience in Ontario, which includes working with Indigenous monitors, I have come to appreciate their perspectives on heritage sites and their insights into cultural heritage values and ideas. I do believe the policing is justified when conducting assessments due to the colonial history and the constraints put on their involvement in archaeology. Some archaeologists view Indigenous monitors negatively

for enforcing policies, but I look at them positively. I believe that archaeologists should be held accountable for their actions[23], which should make them more receptive to Indigenous expectations about their cultural heritage. The role of monitoring is progressive, developing tenets of Indigenous archaeology and incorporating Indigenous views and values into the practice.

Indigenous Liaisons

The role of “liaison” has recently been introduced into Ontario archaeology. This term was initially the product of Devries (2014:81) interviews with representatives from “Indigenous community representatives “and archaeologists in Ontario, where negative connotations about term “monitoring” were first articulated. Primarily, the role of liaison involves representing the interests of the Indigenous community. Although “liaison” is today frequently used interchangeably with Indigenous "monitor" in Ontario archaeology, it expressly doesn’t include the “policing” responsibility. The MCFN have their own take on felid representatives, known as field liaison representatives (FLRs). One MCFN FLR and an FLR supervisor participated in this study.

Field liaison representatives are "deployed to observe fieldwork, provide cultural advice, and assist with compliance in archaeological assessment, are key partners in engagement" (MCFN 2018:5). The primary objective of FLRs is to "to represent MNCFN's stewardship interest in the archaeological resources and cultural heritage values present on a property, and this role cannot be devolved to an archaeologist on the basis of academic qualification” (MCFN 2018:5). A secondary objective is to "monitor adherence to the quantitative standards set out in MTCS [contemporarily MHSTCI] direction and advise on the qualitative assessment of resources to provide meaningful cultural context for analysis and interpretation" (MCFN 2018:5).

[23] Accountability on the part of the archaeologist to work with integrity was not touched on in my interviews. It is important to comment on it here. Archaeologists are bound by their license to comply with the minimum practice standards set out by the Ministry for HRM in Ontario. To gain a license, they must be a member of a professional organization that holds a code of ethics, as presented in Chapter 2. Most codes of ethics for Ontario archaeological organizations promote reconciliation, recognition, and obligations to Indigenous nations and their ancestral heritage. If the codes of ethics are not abided and if archaeological license requirements are not met, this is an avenue Indigenous nations and the Ministry can pursue to hold archaeologists accountable for their actions.

Ancestor Caretakers

In responding to questions relating to Theme 2: Cultural Heritage Management questions, participants acknowledged their connection to their ancestors, and the responsibility they had for caring for them. The majority of participants saw the role of monitoring and field liaison in “heritage management” as synonymous with the “caretaking of their ancestors.” Specifically, the monitors and FLRs who work directly with archaeologists said they were able to better connect with their culture and ancestors through archaeology. However, two factors negatively affect this relationship.

First, the heritage industry limits access to artifacts by only making them available on sites when they are first recovered rather than inviting Indigenous groups post-excavation for help in interpretation or offering access to collections. Once artifacts are discovered, they are bagged, transported to a lab for analysis, and then placed in a box to be stored.

Second, Stage 4 mitigation frequently disturbs or destroys sites, and the cultural landscape they are part of, resulting in intangible heritage destruction. As Borrows (2005:3) explains, Indigenous peoples have developed a sacred relationship with the land over several millennia, which is an essential part of their culture and identity. The destruction of sacred or traditional lands displaces the original cultures and traditional place (MCFN 2018:9). While legislation does conserves archaeological resources, it fails to recognize intangible heritage and the needs of Indigenous groups to remain engaged with the cultural landscape. MCFN (2018:9) states

> Cultural and traditional insights are recoverable through alternative techniques and approaches to site investigation. These include community engagement and adopting diverse perspectives on archaeological resources, including seeking understanding of the intangible values of a place, and the consideration of sites in their wider landscape context. These insights cannot be gained by simply tacking Indigenous knowledge and narratives onto archaeological sites after the archaeological work is complete.

The role of caretaking of the ancestors and, by extension, the belongings (i.e. artifacts) they left behind is often limited by the constraints of provincial policy and its endorsement of the archaeologist as the primary steward of heritage sites. However, Indigenous monitors and liaison roles are making the most of their opportunities in representing their culture and heritage in the field of archaeology in Ontario. Through

local initiatives, the archaeological community can develop more inclusive structures to archaeology in Ontario. I suspect the Indigenous caretaking will be at the forefront. Collaborative practices are clearly needed in with HRM practitioners taking advice and direction from those descendant communities whose ancestral remains are being affected by development.

4. Transforming “Engagement” into “Collaboration”

The discipline of archaeology and, by extension, heritage resource management, continues to evolve in response to technical and theoretical developments. In recent decades, Indigenous activism, Supreme Court of Canada decisions defining Indigenous Rights, the Truth and Reconciliation Commission of Canada 94 “calls to action”, and UNDRIP are all promoting change, or at least the need for change in this country. These initiatives are encouraging a shift from being strictly about the management, preservation, and conservation of heritage to more collaborative approaches inclusive of and respectful to Indigenous relationships and their past (Hollowell and McGill 2014:373). Indeed, when I asked participants how engagement could be improved, they pointed to more involvement in all stages of archaeological work, most stressing full involvement (Theme 3: Involvement: Questions 10–12) and three participants advocated for a collaborative process to help improve engagement in Ontario. Participants noted collaborative approaches involving both archaeologists and Indigenous nations and also nation to nation processes (see Results Chapter: Question 12).

Collaboration in HRM can be viewed within Colwell’s 2016 “collaboration continuum” (Table 10), providing further insight into where Indigenous collaboration stands. The continuum is based on modes of interaction between researchers and the stakeholders (e.g. archaeologists and Indigenous nations).

Table 10. Colwell's (2016) Collaboration continuum modes.

Colonial	Resistance	Participation	Collaboration	Indigenous Control
Goals set solely by archaeologist	Goals develop in opposition	Goals develop independently	Goals develop jointly	Goals are set by tribe
Information extracted and removed from community	Information is secreted	Information is disclosed	Information free flows	Information is proprietary and controlled by tribe
Descendants involved as laborers	No stakeholder involvement	Limited stakeholder involvement	Full stakeholder involvement	Archaeologists are employees or consultants for tribes
No voice for descendants	Little voice for descendants	Some voice for descendants	Full voice for descendants	Full Voice of descendants is privileged
Acquiescence is enforced by the state	No support is given/ obtained	Support is solicited	Support is tacit	Support is authorized by tribe
Needs for science are optimized	Needs of others are not considered	Needs of most parties are mostly met	Needs of all parties are realized	Needs of tribe are privileged
←Control and Power →				

It is important to note that the following description of Ontario HRM relies on an overview of participant responses in this study. The forms and degree of collaboration can shift within the continuum, depending on the individual HRM projects in Ontario. Below I describe how Ontario is primarily situated in the *Colonial mode* of the Colwell's collaboration continuum.

Ontario Archaeology Goals (Colonial mode)

The main provincial goal of archaeology in Ontario HRM is the preservation and conservation of heritage resources for the citizens of Ontario through legislation. This goal is fulfilled by clients (such as developers) seeking provincial archaeologists to fulfill services to meet requirements of the legislation. The goals for the archaeological work develop independently of Indigenous nations, but they are more or less defined by minimal standards of practice guided by the 2011 *Standards and Guidelines for Consultant Archaeologists* and influenced by secondary draft bulletins such as the (2011) *Draft Technical Bulletin on Engaging Aboriginal Communities in Archaeology.*

Information Extraction (Colonial mode)

In Ontario, the limited engagement of Indigenous nations in the HRM assessment (Stages 1-4) process plays a significant factor in creating barriers to information from archaeological assessments. Non-disclosure agreements signed by consultant archaeologists in their business ventures also influence information access. As participants mentioned in the previous sections (see Indigenous Concerns on Archaeological Mitigation) accessibility to information specifically after Stage 4 mitigation is difficult to come by.

Indigenous involvement (Resistance mode)

Ontario has shown promise with Indigenous involvement by adopting tenets of Indigenous archaeology (Nicholas and Andrews 1997; Smith and Wobst 2005; Atalay 2006, 2008), within professional societies such as the CAA and the OAS. In response, the practice of engaging in the Ontario heritage industry has slightly improved. Although Indigenous nations are involved in certain stages of archaeological assessment, they are generally excluded from the assessment process as a whole (Stages 1 to 4). Moreover, outdated Indigenous engagement practices persist and have yet to be updated.

Voices and values of Indigenous nations in Ontario HRM (Colonial mode)

Little voice is given to Indigenous nations on archaeological assessment matters in Ontario. This is due to the power structure handed to the archaeologist by the provincial archaeological license. Ontario HRM has benefitted from Indigenous monitors and field liaisons in archaeological assessment, however, these occurrences are still reactive instead of proactive. In the end, the power structure and voice of western science is still valued over Indigenous conceptions and approaches to heritage management.

As visualized in Cowell's continuum (2016), Ontario HRM has made little progress in involving Indigenous nations. Although continued local and international initiatives (e.g., UNDRIP) can begin to shift towards participation and further decolonization and Indigenous control. Interview participants were also open to the concept of archaeologists leading the decolonization charge. Joanne Thomas (SNEC) stated that:

> We've already done that dance where we take two steps forward and one back, one step forward and three back. Now, for us, the way we look at it is we can do nothing but go forward. You [archaeologists] come with us. Come with us if you

don't you're just going to stay there, it's not going to be easy, and it'll be a rough time. That's the way we look at the way it is right now because you know, I don't want to go backwards anymore. I did enough of that.

Finally, participants seemed to think that achieving change locally by working with archaeologists was more effective than placing their trust in provincial and federal governments(Question 16) and that archaeologists were or could be allies and help to promote meaningful and expanded Indigenous participation in roles in HRM (Question 22). Achieving change locally was also seen as more realistic over waiting for such international directives as UNDRIP to trickle down. Nonetheless, UNDRIP was suggested as a best practice to be implemented into an archaeologist's repertoire:

Canada, it took them so long to recognize it and it's hard. I don't have a whole lot of faith that any real change is going to come of it. When trying to find concrete ways you can incorporate it, it is hard, because you're like, I just know it's not going to be done. I think it just comes down to the individual companies and individual archeologist, taking these big documents and our thoughts, and try and incorporate and engage with us to the best that they can so we can be more incorporated into what's happening. I think it just comes down to individuals building these policies into your own policy frameworks, making sure that engagement is a priority, going above and beyond in the standards and guidelines, not just relying on the bare minimum. It is incorporating our thoughts and our worldviews, our experience more into the framework (Sharann Martin).

Conclusions

I began this research with a broad review of the colonial nature of heritage resource management in order to understand the rise of the authorized heritage discourse in North America. This led to examining Indigenous rights in Canada, including recent Supreme Court of Canada decisions, the Truth and Reconciliation Commission's 94 "calls to action," UNDRIP, and (more briefly) codes of ethics in HRM. Shifting my focus to Ontario, I reviewed the history of Ontario heritage legislation, and how and why Indigenous involvement in archaeology has been challenging. This led to discussion of Indigenous responses to these trends through Indigenous conception of and approaches to heritage.

To help achieve a deeper understanding of Indigenous positions regarding Ontario's heritage resource management, I conducted a series of interviews with ten individuals who represented three Indigenous nations in southern Ontario. Participants shared personal experiences and broader observations on heritage management in the province, including concerns about authority and mitigation practices while reviewing their roles and inclusion (or lack thereof) through equality and collaboration in heritage resource management. Participants acknowledged the colonial nature of cultural heritage management in southern Ontario. The roles of monitors and field liaisons currently represent Indigenous nation's interests in mitigation practices; however, their larger role as caretakers of their ancestors and their traditional worldviews and values have been ignored by Ontario HRM. Participants shared with me their frustration with and hope for achieving greater control and ownership of their heritage on their traditional and treaty lands. They also offered suggestions for how archaeologists could help in doing so, particularly through full involvement and collaborative dialogue.

Implementing Indigenous-Oriented Frameworks

I envisioned that my conversations with members of three Indigenous nations would help find a better way to engage in southern Ontario HRM, where full inclusion and power structure are equal and progressive. Indigenous oriented frameworks can offer inclusivity, partnership, and a "critical mutlivocailty" (Atalay et al. 2014: 11-12) in which multiple Indigenous nation's values are heard and accommodated. Indigenous peoples

are not fully involved in archaeology in Ontario because of provincial legislation and corresponding standardized practices outlined for archaeologists. Stephen Silliman writes that “achieving meaningful engagement or collaboration is not necessarily through legislation, but through social relationship building, joint decision making, mutual respect, and open communication” (2008:87). Given both the responses of participants and the state of Ontario’s rapid development rate leading to land alteration, I believe that archaeologists have the potential to greatly improve Indigenous nation’s involvement in HRM through Indigenous-oriented frameworks.

These frameworks are flexible to HRM practices in Ontario meaning they can be utilized with standardized practices in legislation or without. The frameworks are based on organic growth through the HRM archaeologists and their clients to build relationships with Indigenous nations. There is no standard or guideline to follow for Indigenous-oriented frameworks, however, Figure 5 indicates how they can be incorporated into practice in five stages: 1) Proactive engagement (before or early and often), where archaeologists seek to have conversations with Indigenous nations prior to or when obtaining an archaeological project. 2) Conversations in this manner will convey respect and honesty about the archaeological work, resulting in (3) relationships or partnerships built on the same qualities. 4) Partnerships offer trust and transparency where opinions, values and foreseeable outcomes can be shared by all involved in the project leading to (5) the incorporation of Indigenous worldviews and values.

As this cycle continues, conversations will become more meaningful. Archaeologists and clients will be able to better understand the needs and values of Indigenous nations when it comes to their treaty and traditional lands and their ancestral heritage embedded within. Partnership in Indigenous-oriented frameworks in Ontario should take on Indigenous nation’s approaches and conceptions to HRM and lace them into archaeological practice. Proactive partnerships would allow for intimate, open, and honest dialogue on heritage preservation measures where accurate timelines and economic output can be established with the developer. Importantly, partnerships will enable a process of decolonization where the traditional power structure of archaeology is deconstructed to ensure the identity, values, and concerns of Indigenous nations to which the heritage belongs, creating Indigenous benefits and a path forward to redress the colonial legacy of Ontario HRM.

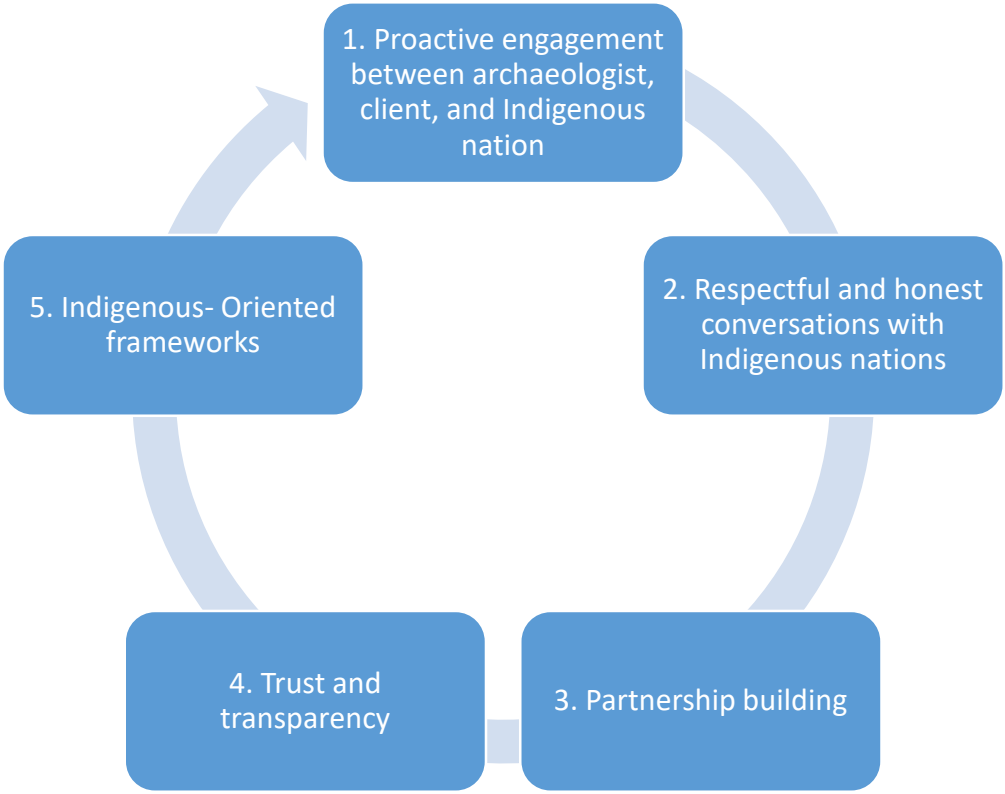

Figure 5 Implementing Indigenous-Oriented frameworks.

Overall, the frameworks can improve Indigenous peoples reactive mitigating position[24] where their nations can only make suggestive preservation measures and comment on what is happening to their heritage sites, usually in the latter stages (Stage 3 and 4) of HRM work. There are multiple Indigenous nations involved in the heritage industry in Ontario. All Indigenous nations have differing individual worldviews based on cultural values that need to be addressed to alleviate concerns on how their cultural heritage is being managed (Budhwa 2005:29). It is thus primarily the responsibility of HRM archaeologists, but also of the government, to create an environment in which all Indigenous nations' values, concerns, and voices are heard. It may seem challenging or

[24] "Mitigation position" was a term derived from my interviews, specifically from Wayne Hill (HDI), who represents the Haudenosaunee Confederacy. I felt that this term summarized Ontario HRM very well in the context of contemporary engagement practices with Indigenous nations by archaeologists. The "mitigation position" represents, in my opinion, the current state of Indigenous involvement in Ontario. This means, involvement of Indigenous nations when it is the minimal requirement and, when they are involved, forced to work with western conceptions of archaeology for two reasons. The lack of: 1) involvement in the creation of and 2) active and holistic involvement in all standardized stages of HRM in Ontario.

perhaps just uncomfortable for an archaeologist to stray from their westernized roots to implement Indigenous worldviews into everyday practice, but it can be done. In the end, archaeologists and their clients reinforce the colonial past. Indigenous-oriented frameworks offer opportunities for reconciliation.

Recommendations

Three recommendations have emerged from this study:

1) ***Indigenous nations need the ability to decide what is best for their heritage using their conceptions to express their needs and values***. Participants all spoke about their resilience, self-reliance, and self-determination when it comes to defining their role in heritage resource management. For example, the role of ancestral caretaking involves more than interacting with material objects that legislation primarily protects. It extends to projecting and protecting Indigenous worldviews, identity and other values, including spiritual and sacred connection to the land. As Nicholas (2014) states, "Heritage needs to be managed by the heritage holders. How can outsiders make decisions about someone else's heritage when they are unaware of, or don't understand, local values, needs, and consequences?"

2) ***Partnerships between HRM archaeologists and Indigenous communities must develop more fully***. Archaeologists have a significant influence on how and to what degree Indigenous nations are involved in HRM assessments. Archaeologists should be responsible for inviting and involving all descendant communities who have an interest in projects in their treaty or traditional lands. This will lead to strong partnerships where stewardship can be shared or even transferred to Indigenous nations, resulting in the rightful ownership and control of Indigenous heritage.

3) ***Engagement (as a policy requirement in Ontario) must be replaced by Indigenous- oriented frameworks that can be built through proactive partnerships.*** Even if the standardized practices persist in southern Ontario HRM, this shouldn't exclude collaborations with Indigenous nations. Refer back to Figure 5 for more detail on how to incorporate Indigenous- oriented frameworks.

Potential Contributions of this Research

My initial thought when developing this research project was that Indigenous nations had very limited involvement in Ontario archaeology, and had, very little say in ownership, control, or benefits from what HRM projects revealed about their ancestral sites. This view was reinforced by the interview participants who shared their insights and personal experiences on their involvement in HRM. I believe this research can contribute to heritage resource management in Ontario in two ways.

First, it can contribute to increased Indigenous involvement in the practice of heritage resource management. By being more fully aware of the impact of current HRM practices on the Indigenous nations, and their exclusion from those practices, archaeologists may become more willing to develop Indigenous -oriented frameworks resulting in long-term relationships. This will also increase a two-way flow of information that can bridge Indigenous and Western knowledge.

Second, this study can promote reconciliation through HRM by listening and learning from Indigenous peoples concerns and advocate for Indigenous rights in pursuit of control and ownership of their heritage. International initiatives such as TRC, UNDRIP and federal and provincial consultation are defining Indigenous rights to heritage. It is clear that Indigenous nations and the participants in this study have for too long been denied their rights to ownership and control of their archaeological remains.

A Final Reflection

This study was intended to examine the degree of Indigenous participation in Ontario heritage resource management and to share the results with the hope that they would be beneficial both to the Indigenous nations and to HRM practitioners. Archaeologists are great advocates for heritage protection and preservation, but should they be the sole or primary caretakers of Indigenous cultural heritage? Archaeologists are currently in a position where they have been appointed stewards over archaeological sites and recovered cultural artifacts as mandated by provincial legislation in Ontario. They have done much in fulfilling their obligations set out by the *Ontario Heritage Act*. But it is time to now reassess how well that act and other policies fulfills its obligations to Indigenous heritage.

In conclusion, this thesis should be viewed as a collaboration I developed with the ten representatives of the Anishinabek (Mississaugas of the Credit First Nation); the Haudenosaunee, consisting of (a) Six Nations of the Grand River Eco-Centre [affiliated with Six Nations Elected Band Council), and (b) the Haudenosaunee Development Institute (affiliated with the traditional Haudenosaunee Confederacy Council)], and (c) the Huronne-Wendat peoples. I asked questions, they responded; they spoke, I listened and learned. The result is a document that captures my academic investigation of their intimate knowledge, insights, and experiences about Indigenous heritage. While skepticism was expressed by participants as to whether federal or provincial legislation will be altered to accommodate their Indigenous rights to cultural heritage, archaeologists can and should be willing to accommodate this change locally through relationship building in collaborative frameworks. As an archaeologist, I am ready to join them in this pursuit.

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Appendix A.

Interview Guide

Interview Questions: Indigenous Communities Southern Ontario

Introduction

1. Who are you? What group are you affiliated with? How did you become involved in archaeology? How many years of involvement?
2. In what capacity do you work in archaeology? What is your general area of work, geographically? What is your positon in archaeology/cultural resource management today?

General

3. What does cultural heritage management mean to you and your community?
4. What is your role in cultural heritage management?

Engagement in Southern Ontario Cultural Heritage Management

5. What are your initial thoughts on engagement policies initiated by the province of Ontario with regards to the Ministry of Tourism, Culture and Sport's standards and engagement bulletin for archaeological work?
6. Does the community have archaeological engagement policies? What kind of policies does your community have? Are these policies recognized by archaeologists and the province?
7. What are the challenges or limitations of Ontario engagement practices?
8. Are there specific problems with certain stages of archaeological assessments? If so how can they be addressed?
9. How can archaeologist be better at involving or informing Indigenous communities about archaeological work (Stage 1-4)?
10. How can engagement become more meaningful?
11. Is there a better way to go about engagement altogether?
12. Would you say your community benefits from the current heritage policies?
13. How do we move beyond ethical and professional obligations to engage Indigenous communities? Moreover, in your opinion, why are Indigenous communities not engaged from the outset for certain projects?

Consultation in Southern Ontario Cultural Heritage Management

14. What is more effective, the Duty to Consult by the Crown or engagement with archaeologists?

15. What are your experiences with the Duty to Consult in southern Ontario? How well does the Crown uphold its duty? Do third parties still accommodate when they are not legally bound to consult and accommodate?
16. Section 35 of the *Constitution Act*, 1982 recognizes and affirms existing Aboriginal and treaty rights of Indigenous peoples in Canada, and the Government holds a fiduciary responsibility to Indigenous people all over Canada. Do you feel the government has upheld their responsibility to accommodate the rights and concerns about your heritage?
17. How can the government and its archaeologists begin to incorporate documents such as the United Nations Declaration on the Rights of Indigenous people (UNDRIP) into cultural heritage management? (Referring to specific articles such as Article 11 and 31 of UNDRIP).

Ownership and Control of Southern Ontario Heritage

18. Does provincial control over your ancestral heritage sites prevent you from learning about your heritage? Does the current legislation limit the development of your culture?
19. Why haven't Indigenous communities been able to have more control over ancestral heritage? What do you feel Indigenous people can gain by having more control over ancestral sites?
20. Should archaeologists be the primary stewards of heritage? How can heritage control become more equitable?
21. What are your feelings on Indigenous history being written by mostly non-Indigenous people due to colonial frameworks?

Equitable Practices

22. In your opinion what can be done to make the practice of archaeology more equitable?
23. How can we begin to harmonize archaeological practice with documents like UNDRIP, which Canada fully endorsed by removing its objector status in 2016?

Decolonization of Archaeology

24. Do you feel that recent affirmation of Indigenous rights, such as in recent Supreme Court of Canada cases (SCC) and UNDRIP, will help to decolonize archaeology?
25. Do you believe it is possible to decolonize archaeology in Ontario?

Voices and Tradition

26. Indigenous knowledge is not widely used in archaeology. How can Indigenous knowledge be incorporated into archaeology in southern Ontario?
27. How can the voices of Indigenous peoples and their traditions begin to educate archaeologists and the public about the past?

Appendix B.

Letter of Information

SFU SIMON FRASER UNIVERSITY
ENGAGING THE WORLD

Project title: A Critical Review of the Effects of Ontario's Heritage Legislation on Indigenous Engagement in Southern Ontario: A Survey of Indigenous Opinions on Heritage Legislation, Ownership and Control in Cultural Heritage Management.

Principal Investigator: Christian Meier, MA Candidate. Department of Archaeology, Simon Fraser University.

Faculty Supervisor: Dr. George P. Nicholas. Professor, Department of Archaeology, Simon Fraser University.

External Collaborator: Dr. Gary Warrick. Associate Professor, Indigenous Studies and History Programs, Wilfrid Laurier University. Committee member

Letter of Information

Study Number 2018s0034

Invitation to participate in the study
You are invited to participate in research conducted by Christian Meier from Simon Fraser University. The study is designed to collect and analyze information on the effects of Ontario heritage legislation on Indigenous peoples in southern Ontario. The study will be based on a survey of Indigenous opinions and experience with engagement in cultural heritage management.

Purpose of the Letter
This letter provides information about the study and its process. It is meant to help Indigenous governments and potential participants in understanding the proposed research and make an informed decision in participating.

Purpose of the Study
The primary goal of the study is to develop a document summarizing Indigenous research feedback in aid of more effective and satisfying Indigenous engagement in heritage management. A secondary goal of this study is to advocate for the rights of Indigenous peoples, specifically the right to protect and control their heritage. The Ministry of Tourism, Culture, and Sport says it is "committed to continual review of the technical bulletin *(the Aboriginal Engagement Draft Technical Bulletin)* with Aboriginal communities and archaeology stakeholders and will update the bulletin as needed to ensure that it is useful, effective and current." Given the opportunity, I plan to provide insight on the usefulness and effectiveness of heritage legislation in Ontario from an Indigenous perspective.

Inclusion Criteria

Indigenous groups with a history of land occupation and today share territories in southern Ontario are the Anishinaabe (Mississaugas of the Credit First Nation), Haudenosaunee (Six Nations of the Grand River Eco-Centre (affiliated with Six Nations Elected Band Council), and the Haudenosaunee Development Institute (affiliated with the traditional Haudenosaunee Confederacy Council)), and the Huron-Wendat peoples. I am seeking information from participants based on three inclusion requirements. The three requirements are: holding Indigenous status with affiliation to one of the above groups, having a working knowledge of Ontario's heritage legislation, mainly, the 2011 Standards and Guidelines for *Consultant Archaeologists* and the accompanying *Engaging Aboriginal Communities*, and three years' experience working in archaeology in southern Ontario.

Study Procedures

Upon approval of the research, participants with the above requirements will invited to share their knowledge through an interview process. The interview process is expected to take place over a two to three month period. The estimated time per interview will be one hour. Interviews will be held in a location of the participant's choosing; where in-person interviews are not possible, the use of telephone or Skype interviews will be sought. I plan to use an audio recording device during interviews. Audio recording with permission will allow me to return to the data later, and focus on the conversation while also writing notes. The notes and interview will then be transcribed. Participants will have the opportunity to review and make corrections to the transcriptions upon request. To complement the data from the interviews, a literature review of current Ontario legislation and new developments in heritage ethics, ownership and control will be formulated.

Possible Benefits

At this time the potential benefits to the participant and their community are unknown. However, I expect that this study will benefit both the participant and their community by contributing to debates on heritage control and ownership in Ontario and advocating for the rights of Indigenous people, specifically the right to protect and control their heritage.

Possible Risks and Harms

At this time there are no known risks associated with the study.

Incentive

No incentive or compensation will be provided as part of the study.

Confidentiality

Due to the nature of the study, I plan to use an audio recorder as an aid in the interview process. All data collected will remain confidential and will only be accessible to the investigators in the study. All participants in the study will receive an informed consent form

prior to participation. Moreover, participants will have the opportunity to request confidentiality, meaning their identities cannot be revealed in any published research results. Participants have the right to quit the study at any time. Participants will have the option to agree to information being used in future studies. If they agree an email address will be requested for future contact.

Contact information for further study details

If any of the study information is unclear or you would simply wish to see further information regarding the study, you may contact: Christian Meier; [redacted] or Dr. George P Nicholas; [redacted]

Dissemination of Results

Participants of the study will have the option to be informed of the study results on the consent form. If they choose to be informed they will be emailed the link of the study when it is published by the university. The participant will also have the option to contact the principal investigator or senior supervisor if they want more information about on the study. The study and all associated documents, including interview transcripts, will be submitted with my thesis to Simon Fraser University Library. If a participant wishes to have a copy of their transcripts or any other documents manufactured from their intellectual knowledge, they will be provided.

Consent

Participants will need to give informed consent, a consent from will be provided to participants upon approval by Indigenous governments.

Appendix C.

Consent Form

SFU SIMON FRASER UNIVERSITY
ENGAGING THE WORLD

A Critical Review of the Effects of Ontario's Heritage Legislation on Indigenous Engagement in Southern Ontario: A survey of Indigenous opinions on heritage legislation, ownership and control in cultural heritage management.
Study Number 2018s0034

Consent Form

Principal Investigator:
Christian Meier, MA Candidate. Department of Archaeology, Simon Fraser University.
[redacted]

Faculty Supervisor:
Dr. George P. Nicholas. Chair, Department of Archaeology, Simon Fraser University.
[redacted]

External Collaborator:
Dr. Gary Warrick. Associate Professor, Indigenous Studies and History Programs, Wilfrid Laurier University. Committee member.
[redacted]

The following research study is being conducted as part of a Master of Arts degree. The resulting research will take the form of a thesis, which will be publicly available knowledge and located online in the Simon Fraser University Library collections. Simon Fraser University and Christian Meier, the researcher conducting this study, subscribe to the ethical conduct of research and will wholeheartedly show respect for all persons, concern for participant welfare and treat them justly. If you have any questions, concerns or complaints about the manner in which you were treated, your rights as a participant in the research, or the responsibility of researcher, please contact Dr. Jeffrey Toward, Director, Office of Research Ethics
[redacted]

Purpose of the Study
The study is designed to collect and analyze information on the effects of Ontario heritage legislation on Indigenous peoples, based on Indigenous experiences with archaeological investigations in southern Ontario. The primary goal of the study is to develop a document summarizing Indigenous research feedback in aid of more effective and satisfying Indigenous engagement in heritage management. A secondary goal of this study is to advocate for the rights of Indigenous peoples, specifically the right to protect and control their heritage. Given the opportunity, I plan to provide insight on the usefulness and effectiveness of heritage

legislation (*Standards and Guidelines for Consultant Archaeologists* and *the Aboriginal Engagement Draft Technical Bulletin)* in Ontario from an Indigenous perspective.

What you as the participant will be required to do:
As a participant in the study you are being sought for your knowledge of southern Ontario heritage and its associated archaeological engagement protocols. I will be seeking your participation in a semi-structured interview where I will be asking open-ended questions about cultural heritage management in southern Ontario. I will also ask questions about Ontario archaeological engagement protocols and your viewpoint on and roles within the provincial legislation. Lastly, I will be asking for your specific feedback on how the engagement protocols can be changed to make it more equitable for Indigenous peoples and the future potential of Indigenous heritage stewardship in Ontario. The interview will occur between May and August of 2018 at the location of your choosing and will take approximately one hour to complete. There is no incentive or compensation for your involvement in the study. At any time you as the participant have the right to not answer a question or to quit the study with no penalty.

The interview will be audio recorded with your permission and aided by handwritten notes. After the interview, I will transcribe the interview data, and the notes will be scanned. All the data, the audio recordings, scanned notes, and transcriptions will be stored on a secured hard drive and locked in the researcher's desk when not in use. The study data will only be accessed by myself, and my supervisors, Dr. George Nicholas and Dr. Gary Warrick. All the data will be secured safely for two years after the study is completed in the SFU library, before it is destroyed. As the data obtained through interviews is also your intellectual property, all digital and paper copies will offered back to you after completion of the study.

Risks to participants, third parties, or society:
There are no known risks associated with the study.

Potential Benefit of the study:
At this time the potential benefits to the participant and their community are unknown. However, I hope that this study will benefit both the participant and their community by contributing to debates on heritage control and ownership in Ontario and advocating for the rights of Indigenous peoples, specifically the right to protect and control their heritage.

Statement of Confidentiality:
Upon your request, your identity can remain confidential. If you wish to remain confidential, I will maintain the confidentially of your identity and all contributions made to the research study. However, it must be noted that, if interviews are conducted over the phone or Skype, because of their unsecure nature, confidentially cannot be guaranteed. Please choose from the options below:

◯ Yes, I would like my identity and contributions to remain confidential
◯ No, I consent to my identity being used in this study

Participants contact for future research or use of data in research
Your identity is not required, however it will be required if you choose to consent to future research.
As a participant in this study, the knowledge you have contributed may be useful for future studies. Please choose an option below:

◯ Yes, I will **agree** to have my information used for future study.
◯ No, I will **not agree** to have my information used in future studies.

If you agree to have your information used above, future studies may wish to contact you:

◯ Yes, I will **agree** to future contact for study purposes
◯ No, I will **not agree** to future contact

Future study contact information:
Name: _____
Email: _____

Study Results
If you are interested in the study results upon completion you may contact Christian Meier; Tel: [redacted] or Dr. George P Nicholas; [redacted]

You also have the option to be sent a copy of this thesis when it is completed, if so please indicate below.

◯ Yes, I would like to be sent a copy of the completed thesis.

Your signature on this document will acknowledge that you have received this document, reviewed the entire document, fully understand the study, your role as a participant and the role of the researcher.

I certify that I fully understand the procedures to be used in the study and the personal risk to me as a participant in the study. Your Acknowledgement is needed below.
Participants Last Name: _____
Participants First Name: _____
Signature: _____
Date (YYYY/MM/DD): _____